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NOTICE

The undermentioned *Gazettes of India Extraordiary* were published upto the 17th October 1954 :—

Issue No.	No. and date	Issued by	Subject
233	S.R.O. 3180, dated the 4th October 1954.	Delimitation Commission, India.	Final Order No. 19, in respect of the distribution of, seats to, and the delimitation of Parliamentary and Assembly constituencies in the State of Andhra.
234	S.R.O. 3181, dated the 4th October 1954.	Ditto.	Proposals in respect of the distribution of seats allotted to the State of Bombay in the House of the People and the seats assigned to the Legislative Assembly of that State.
235	S.R.O. 3182, dated the 3rd October 1954.	Election Commission, India.	Amendment made in the Notification No. 62/10/51-Elec.II(3), dated the 9th November 1951.
	S.R.O. 3183, dated the 3rd October 1954.	Ditto.	Amendment made in the Notification No. 62/3/51-Elec.II(3), dated the 5th October 1951.
236	S.R.O. 3184, dated the 8th September 1954.	Ditto.	Election Petition No. 153 of 1952.
237	S.R.O. 3185, dated the 12th October 1954.	Central Board of Revenue.	Baggage Rules for passing free of import duty by passengers from foreign ports other than from French or Portuguese possessions in India or in Ceylon or Pakistan.
238	S.R.O. 3186, dated the 12th October 1954.	Ministry of Law.	Amendments made in the Representation of the People (Preparation of Electoral Rolls) Rules, 1950.

Issue No.	No. and date	Issued by	Subject
239	S.R.O. 3187, dated the 13th October 1954.	Ministry of Finance.	Amendments made in the notification No. D. 5471-BII/54, dated the 1st May 1954.
240	S.R.O. 3188, dated the 16th September 1954.	Election Commission, India.	Election Petition No. 1/15 of 1953.
241	S.R.O. 3235, dated the 14th October 1954.	Ministry of Finance (Revenue Division).	Exemption of sacramental wine from so much of customs duty leviable under the Indian Tariff Act, 1934.
242	S.R.O. 3236, dated the 15th October 1954.	Ditto . .	Amendments made in the Central Excise Rules, 1944.
	S.R.O. 3237, dated the 15th October 1954.	Central Board of Revenue.	Shri S. C. Chaudhuri, Commissioner of Income-tax shall perform his functions under the Indian Income-tax Act, 1922 in respect of the State of Jammu and Kashmir.
	S.R.O. 3238 dated the 15th October 1954.	Ministry of Finance (Revenue Division).	Amendments made in the notification No. 25-Customs, dated the 1st April 1950.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

ELECTION COMMISSION, INDIA

New Delhi, the 18th October 1954

S.R.O. 3247.—It is hereby notified for general information that the disqualifications under clause (c) of section 7 and section 143 of the Representation of the People Act, 1951 (XLIII of 1951), incurred by the person whose name and address are given below, as notified under notification No. BY-P/52 (35), dated the 26th April, 1952, have been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section 144 of the said Act respectively:—

Shri Shantram Sawlaram Mirajkar,
Abdul Kader Chambers,
M. H. No. P. L. 180,
St. Xavier's Street,
Bhoiwada Police Station Area,
Bombay—12.

[No. BY-P/52(70).]

P. N. SHINGHAL, Secy.

MINISTRY OF LAW

New Delhi, the 15th October 1954

S.R.O. 3248.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that the following further amendment shall be made in the notification of the Government of India in the Ministry of Law No. S.R.O. 215 dated the 9th February, 1952, relating to the execution of contracts and assurances of property, namely:—

In Part XX of the said notification, under Head A:—

After entry, 6, the following entry shall be added namely:—

"7. Contracts for catering in the hostels of the Marine Engineering College, Calcutta; *by the DiDrector of Marine Engineering Training, Calcutta*".

[No. F. 32-III/52-L.]

B. N. LOKUR, Joint Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

CORRIGENDUM

ESTATE DUTY

New Delhi, the 12th October 1954

S.R.O. 3249.—In the Ministry of Finance (Revenue Division) Notification S.R.O. 2683—Estate Duty, dated the 16th August, 1954, appearing on pages 1983 to 1995 of the Gazette of India, dated the 21st August, 1954, Part II, Section 3, the following corrections shall be made, namely:—

On Page	Against Serial No.	For	Read
1985	75	P. Sc. (Engg.)	B. Sc. (Engg.)
1987	115	Panade	Ranade
1988	149	Seengal, B. P.	Seengal, B. R.
1988	2	Banerji	Banerjea
1988	12	Do.	11, Old P.O. St., Cal.
1989	19	Minue	Minu
1989	22	Calcutta-6	Calcutta-1
1989	28	Mangee Lane	Mangoe Lane
1989	35	12-A	12-1
1989	36	F.C.A.	A.C.A.
1989	38	Brahourne	Brabourne
1989	43	10	1-B
1989	46	72-A	71-A
1989	58	4, Fairlie Place, Cal.	12, Dalhousie Square East, Calcutta.
1990	73	Abhyankar	Abhyankar, G. S.
1990	74	Abarbad	Adarbad
1990	74	Lal Darwaja Road	Lal Darwaja
1990	79	Arashivala	Agashivala
1990	90	Desai, D. D.	Desai, D.S.
1990	95	Vaman Hal	Vaman Hari
1990	97	Tuttonshaw	Ruttonshaw
1990	99	Ditlwalla	Dotiwalla
1991	117	National Insurance Building, 204, Hornby Road.	Bell & Co.'s Building, Sir Phiroze Shah Mehta Road,
1991	120	Lakhia, R., F.C.A., Ahmedabad.	Lakhia, C.R., F.C.A., Model Talkies Building, Gandhi Road, Ahmedabad.
1991	132	Pardiwalla	Pardiwalla, B.N.,
1992	146	114, Mahatma Gandhi Road	113, Mahatma Gandhi Road
1992	147	D.G.A.	G.D.A.
1992	151	Bahl, R. H.	Bahl, H. R.
1992	156	Meshnarain	Maheshnarain

On Page	Against Serial No.	For	Read
1992	158	Sadar Bazar, Delhi. . .	25, Lakshmi Insurance Building, Ajmeri Gate Extension, New Delhi.
1992	166	S.B., V.A., F.C.A. . . .	S.V., B.A., A.C.A.
1992	176	Khosla, D. B. . . .	Khosla, D. P.
1992	183	Bishwar Nath Road. . .	Bisheshwar Nath Road
1993	195	Ashton	Ashton, J.,
1993	196	Blankinsop . . .	Blenkinsop
1993	197	Koyyayam	Kottayam
1993	203	Kandeker	Dandeker
1993	205	Krishan	Krishna
1993	206	Koshikode	Kozikode
1993	213	Rangaswmmy . . .	Rangaswami
1993	221	Sastri, S. C. . . .	Sastri, C. S., B.A.,
1993	239	Cahaluvaiya . . .	Chaluvaiya, A. N.,
1994	241	1404, Sampige Rd., . .	1408, Sampige Road,
1994	243	Jagdeshan . . .	Jagadisan
1994	246	Ramchandra . . .	Ramachandra
1994	247	Rajahmahendrapurum . .	Rajahmahendravaram.
1994	249	1/12, Bank of Mysore Building	A/12, Bank of Mysore Building.
1995	9	Rajasthan Kala Sanstha, Jaipur.	Thatheron Ka Rasta, Jaipur City.
1995	4	Ghosh, Tejopaya, . . .	Ghosh, Tejomaya

[No. 17]

R. K. DAS, Dy. Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 11th October 1954

S.R.O. 3250.—In exercise of the powers conferred by sub-section (2) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), and in partial modification of its Notification No. 34-Income-tax, dated the 19th May, 1954, the Central Board of Revenue hereby directs that Shri Pyare Lal Aggarwal who has been appointed by the Central Government to be a Commissioner of Income-tax with effect from the afternoon of the 1st October, 1954 shall perform all the functions of a Commissioner of Income-tax in respect of the areas comprised in the State of Mysore, Travancore-Cochin and Coorg and the area known as Fort Cochin in the Malabar District of the State of Madras and in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax authority in the aforesaid areas:

Provided that he shall not perform his functions in respect of such persons or of such cases as have been or may be transferred by the Central Board of Revenue to any Income-tax authority outside his jurisdictional areas as aforesaid.

[No. 60.]

K. B. DEB, Under Secy.

MINISTRY OF COMMERCE AND INDUSTRY

Bombay, the 1st October 1954

S.R.O. 3251.—In exercise of the powers conferred by the proviso to Explanation 1 to sub-section (1) of section 3 of the Dhoties (Additional Excise Duty) Act, 1953 (39 of 1953), the Central Government hereby fixes the permissible quota for the quarter October, 1954 to December 1954 and every subsequent quarter, in respect of M/s. the Davangere Coton Mills Ltd., Davangere to be 324,000 (Three hundred twenty-four thousand) yards.

[No. 9(27)-CT(A)/53-9.]

G. V. PILLAI, Under Secy.

New Delhi, the 14th October 1954

S.R.O. 3252.—In exercise of the powers conferred by section 25 of the Industries (Development and Regulation) Act, 1951 (LXV of 1951), the Central Government hereby directs that the powers exercisable by it under section 18G of the said Act, shall, in relation to the control of supply, distribution and price of cement in the States of Hyderabad and Mysore, be exercisable also by the respective State Governments of Hyderabad and Mysore, subject to the condition that no order made by the State Governments in the exercise of the powers so delegated shall have effect in so far as such order is repugnant to any order made by the Central Government under the said section 18G.

[No. 11(1)IA(G)/54.]

P. S. SUNDARAM, Dy. Secy.

New Delhi, the 15th October 1954

S.R.O. 3253.—The following draft of certain amendments to the Tea Rules, 1954, which it is proposed to make in exercise of the powers conferred by section 49 of the Tea Act, 1953 (29 of 1953), is published, as required by sub-section (1) of the said section, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 23rd October, 1954.

2. Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified, will be considered by the Central Government.

Draft Amendments

In the said Rules—

1. To sub-rule (1) of rule 24—

(i) the words "as provided in rule 25A" shall be added; and

(ii) the following Explanation shall be added, namely:—

"*Explanation.*—In this sub-rule and in rule 25A, the experssion, "low producing area" means a tea estate or sub-division of a tea estate having an actual crop basis, as determined with reference to the area planted therein with tea on the first day of the financial year immediately preceding the financial year to which any application by the owner of such estate or sub-division under rule 23 relates, of less than 456 pounds avoirdupois per acre."

2. After rule 25, the following rule shall be inserted, namely:—

"25A. *Application for allowance for low producing area.*—(1) An application for making, in the calculation of the crop basis, an allowance on account of the area being a low producing area may be made to the Board along with the application for export quota under rule 23.

(2) No such application shall be granted unless the applicant proves to the satisfaction of the Licensing Committee that, had such allowance been granted in the previous year, the crop of the low producing area to which the application relates would nevertheless have not been less than the amount of the enhanced export quota which would be admissible to it by reason of the grant of the allowance:

Provided that the Licensing Committee may reduce the allowance to be granted under this rule by an amount equal to the amount by which the crop of such low producing area appears to be likely to fall below such enhanced export quota in consequence of the grant of the allowance.

If such application is granted, the following amount shall be added to the actual per acre crop basis of the low producing area to which the application relates, namely:—

(a) in the case of a low producing area included in any of the Darjeeling hill gardens listed in Schedule I, the amount specified in column 2 of

Schedule II against the entry in column 1 of that Schedule corresponding to such crop basis,

(b) in the case of any other low producing area, the amount specified in column 3 of Schedule II against the entry in column 1 of that Schedule corresponding to such crop basis:

Provided that the Licensing Committee may reduce the amount of allowance admissible under this sub-rule by the amount determined under the proviso to sub-rule (2)."

3. In rule 32, for the words "in the Schedule to these rules", the words and figure "in Schedule III" shall be substituted.

4. For the heading "Schedule—Forms (See Rule 32)" occurring after rule 40, the heading "Schedule III' shall be substituted, and before the heading as so (See rule 32)
substituted, the following shall be inserted, namely:—

SCHEDULE I

(See rule 25A)

List of Darjeeling Hill Gardens.

Arya
Ambootea
Avongrove
Bloomfield
Badamtam
Balasun
Barnesbeg
Bannockburn
Chongtong
Chamong
Castleton
Ceders
Dooteriah (Tong Song)
Dilaram
Edenvale
Ghyabari
Gopaldhara
Goomtee
Glenburn
Ging
Gyabaree
Gillie
Hopetown
Happy Valley
Jungpana
Kalej Valley
Lebong & Mineral Springs
Lingia
Liza Hill
Lopchu
Mahalderam
Maharanee
Majhuwa & Giddapahar
Alubari
Monteviot
Margaret's Hope
Dow Hill
Murmah
Mim
Makaibari
Moondakotee
Marybong
Mulootar
Nagri
Nagri Farm
Namring (Darjeeling Tea & Cinchona Assocn.)
Nurbong
Oaks
Okayti
Phoobsering
Pashok
Pussimbing
Phuguri
Poobong
Pandam
Rangaroon
Rungmook
Rungneet
Ringtong
Glendernel Lodge
Risheehat
Runglee Rungliot
Saumebeong
Seeyok
Sivitar
Soom
Rongbong
Tingling
Sepoydoorah
Singell
Singla
Soureni
Steimthal
Selimbong
Sungma
Singbuli
Selim Hill
Singtom
Springside
Thurbo
Tindharia
Tukvar (Tukvar Co. Ltd.)
Tukavar (Lebong Tea Co. Ltd.)
Tumsong
Tukdah
Turzum
Teesta Valley
Dumsong

SCHEDULE II

(See rule 25A)

Allowances for low producing area.

Low production actual crop basis of the estate in lbs. per acre.				Allowance in lbs. per acre in the case of	
				Darjeeling Hill Gardens	Other Estates.
		1		2	3
Not more than 280				62	48
More than 280	but not more than	283		61	48
Do. 283	Do.	286		60	48
Do. 286	Do.	288		59	48
Do. 288	Do.	291		58	48
Do. 291	Do.	294		57	48
Do. 294	Do.	297		56	48
Do. 297	Do.	299		55	48
Do. 299	Do.	302		54	48
Do. 302	Do.	305		53	48
Do. 305	Do.	308		52	48
Do. 308	Do.	311		51	48
Do. 311	Do.	313		50	48
Do. 313	Do.	316		49	48
Do. 316	Do.	322		48	48
Do. 322	Do.	324		47	47
Do. 324	Do.	327		46	46
Do. 327	Do.	330		45	45
Do. 330	Do.	333		44	44
Do. 333	Do.	336		43	43
Do. 336	Do.	338		42	42
Do. 338	Do.	340		41	41
Do. 340	Do.	343		40	40
Do. 343	Do.	345		39	39
Do. 345	Do.	349		38	38
Do. 349	Do.	352		37	37
Do. 352	Do.	355		36	36
Do. 355	Do.	358		35	35
Do. 358	Do.	361		34	34
Do. 361	Do.	363		33	33
Do. 363	Do.	366		32	32
Do. 366	Do.	369		31	31
Do. 369	Do.	372		30	30
Do. 372	Do.	374		29	29
Do. 374	Do.	377		28	28
Do. 377	Do.	380		27	27
Do. 380	Do.	383		26	26
Do. 383	Do.	386		25	25
Do. 386	Do.	388		24	24
Do. 388	Do.	391		23	23
Do. 391	Do.	394		22	22
Do. 394	Do.	397		21	21
Do. 397	Do.	399		20	20
Do. 399	Do.	402		19	19
Do. 402	Do.	405		18	18
Do. 405	Do.	408		17	17
Do. 408	Do.	411		16	16
Do. 411	Do.	413		15	15
Do. 413	Do.	416		14	14
Do. 416	Do.	419		13	13
Do. 419	Do.	422		12	12
Do. 422	Do.	424		11	11
Do. 424	Do.	427		10	10

Low production actual crop basis of the estate in lbs. per acre.				Allowance in lbs. per acre in the case of	
				Darjeeling Hill Gardens	Other Estates
1				2	3
More than	427	but not more than	430	9	9
Do.	430	Do.	433	8	8
Do.	433	Do.	436	7	7
Do.	436	Do.	438	6	6
Do.	438	Do.	441	5	5
Do.	441	Do.	444	4	4
Do.	444	Do.	447	3	3
Do.	447	Do.	451	2	2
Do.	451	but less than	456	1	1

[No. 32(9) Plant/54]

S. KRISHNASWAMI Dy. Secy.

New Delhi, the 16th October 1954

S.R.O. 3254.—In exercise of the powers conferred by clause (e) of sub-section (3) of section 4 of the Central Silk Board Act, 1948 (LXI of 1948), read with sub-rule (1) of rule 6 of the Central Silk Board Rules, 1949, the Central Government hereby directs that the following further amendment shall be made in the Notification of the Government of India in the Ministry of Commerce and Industry, No. S.R.O. 683, dated the 9th April, 1952, namely:—

In the said notification, for item No. 8, the following item shall be substituted, namely:—

"8. Shri K. Subramanian, B.Sc., Sericultural Expert, Department of Industries, Labour and Co-operation, Madras (*ex-officio*)."

[No. 23(31)-CTB/52.]

P. V. S. SARMA, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE

(Agriculture)

New Delhi, the 14th October 1954

S.R.O. 3255.—In exercise of the powers conferred by Section 18 of the Indian Coconut Committee Act, 1944 (X of 1944), the Central Government hereby directs that the following further amendments shall be made to the Indian Central Coconut Committee Rules, 1945, namely:—

In sub-rule (1) of rule 15 of the said Rules, the words, brackets and figures "Subject to the provision of sub-rule (3) of Rule 20" shall be omitted.

[No. F. 21-60/54-Com-I]

R. L. MEHTA, Dy. Secy.

New Delhi, the 14th October 1954

S.R.O. 3256.—In exercise of the powers conferred by Clause 2(a) of the Vegetable Oil Products Control Order, 1947, as amended by the Government of India, in the Ministry of Food & Agriculture Notification No. S.R.O. 2040, dated the 22nd December, 1951, I hereby authorise the officers specified in Col. 2 of the Schedule hereto annexed in respect of their respective jurisdiction in the

State mentioned in Col. 1 to exercise, subject to such directions as may be issued by me from time to time in this behalf, the powers of the Vegetable Oil Products Controller of India under Clause 13 of the said Order.

"THE SCHEDULE

State (1)	*Designation of Authority* (2)
Ajmer.	1. Assistant Marketing Officer. 2. Marketing Inspector."

[No. 2-VP(2)/54/1234.]

P. A. GOPALAKRISHNAN,
Vegetable Oil Products Controller for India.

(Agriculture)

New Delhi, the 18th October 1954

S.R.O. 3257.—In exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), the Central Government hereby directs that the following further amendments shall be made in the Tobacco Grading and Marking Rules, 1937, the same having been previously published as required by the said section:—

In the said rules—

In Schedule II—

(1) after grade designation LMG and the entries against it, the following grade designation and entries shall be inserted, namely:—

"MG	Medium green	Medium to coarse	Good body leaves or strips with medium green colour which may have spongy, scalded or brown spots or blemish due to disease, altogether not exceeding 25% of the total area, not falling within LMG",

(2) in grade designation DG, in column (4) after the letters "LMG", the word and letters "or MG" shall be inserted;

(3) after the grade designation DB and the entries against it, the following grade designation and entries shall be inserted, namely:—

"DBL	Dark brown	Fair Body	Good body leaves or strips which may have brown patches, spongy, scalded or bruised spots or blemish due to disease not exceeding 40% of the total area and perished leaves not exceeding 50% of the total quantity.";

(4) for grade designations BB, BB2 and BB3 and the entries against the same the following grade designation and entries shall be substituted, namely:—

"Bits	Bright lemon or bright orange or yellow to light brownish yellow or brown, light green or light medium green or mixed.	Fair body or mixed	Broken pieces (not less than three inches long) of leaves of grades 1 to 4 LBY, LBY2, B, LG and LMG";

(5) in foot note 3, the letters "BB" shall be omitted.

[No. F.5-66/53-Dte.II.]

I. P. MATHUR, Under Secy.

(Agriculture)

New Delhi, the 19th October 1954

S.R.O. 3258.—In exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (I of 1937), the Central Government hereby directs that the following further amendments shall be made in the Tobacco Grading and Marking Rules, 1937, the same having been previously published as required by the said section, namely:—

In the said Rules:—

(1) In sub-rule (1) of rule 3, after the words "All the tobacco shall be clean and free from excess moisture and other extraneous matter", the following words and figures shall be inserted, namely:—

"Any tobacco redried and packed for export to the United Kingdom shall ordinarily contain moisture between 10·5 per cent. and 11 per cent. at the time of sampling of such tobacco by the redrying factory except in such cases where an export order specifically requires moisture content to be below 10·5 per cent. or above 11 per cent.";

(2) after rule 6, the following rule shall be inserted, namely:—

"7. *Special conditions of certificate of authorisation.*—In addition to the conditions specified in rule 4 of the General Grading and Marking Rules, 1937, the conditions set out in Schedule XII shall be conditions subject to which a certificate of authorisation is issued to an owner of a tobacco redrying factory for purposes of these rules"; and

(3) after Schedule XI, the following Schedule shall be inserted, namely:—

"SCHEDULE XII

Special conditions of a certificate of authorisation issued to an owner of a tobacco redrying factory

(*See* rule 7)

(1) That the owner of the redrying factory shall provide the factory with moisture testing equipment approved by the Agricultural Marketing Adviser to the Government of India or an officer authorised by him in this behalf and shall employ suitable staff for moisture determination work.

(2) That any redrying factory authorised in this behalf shall maintain proper records of moisture tests of tobacco samples in the forms approved by the Agricultural Marketing Adviser to the Government of India.

(3) That a redrying factory shall test at least every tenth package redried in the order of packing whether on its own account or on behalf of another authorised packer or packers and shall issue a copy of the moisture test report on each parcel of tobacco redried and packed at the factory.

(4) That all instructions regarding the methods of sampling and moisture determination which may be issued from time to time by the Agricultural Marketing Adviser to the Government of India shall be strictly observed.

(5) That every redrying factory authorised in this behalf shall make available for inspection at all reasonable times the moisture tests records to persons duly authorised by the Agricultural Marketing Adviser to the Government of India."

[No. F.16-36/53-Dte.II.]

BALWANT SINGH, Dy. Secy.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 18th October 1954

S.R.O. 3259.—It is notified for general information that Srimati Rajan Nehru, having tendered resignation from membership of the Madras Advisory Panel of the Central Board of Film Censors, the Central Government has accepted the same, with effect from the 23rd October, 1954.

[No. 14/5/54-FC.]

D. KRISHNA AYYAR, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 12th October 1954

S.R.O. 3260.—The following draft of a further amendment in the Drugs Rules, 1945, which it is proposed to make after consultation with the Drugs Technical Advisory Board, in exercise of the powers conferred by sub-section (2) of section 6 and sections 12 and 33 of the Drugs Act, 1940 (XXIII of 1940), is published as required by the said sections for the information of persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after the 23rd January, 1955.

2. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendment

In the said Rules, for Schedule B, the following Schedule shall be substituted, namely:—

SCHEDULE B

(*See* rules 7 and 48)

Fees for test or analysis by the Central Drugs Laboratory or the Government Analyst

	Rs.
I. *Fees for drugs including hormones etc. requiring biological assay*	
Digitalis	35
Strophanthus	35
Pituitary (Posterior Lobe) Extract	35
Adrenaline preparations	35
Thyroid	35
Sex gland preparations :—	
Ovarian	50
Luteal	70
Orchis	50
Heparin	50
Insulin & Insulin combinations (prolonged action)	50 to 75*
Organic Arsenicals :—	
Neoarsphenamine, Sulpharsphenamine and allied products	50 to 70*
Tests for sterility	10
Toxicity tests for organic antimony compounds and other compounds in experimental stage	20 to 30*
Pyrogen test	20
Antibiotics (assay, pyrogen, undue toxicity, sterility, and chemical tests) (depending on the number of tests to be carried out)	30 to 70*
Disinfectants	45
Surgical sutures (depending on the number of tests to be carried out)	15 to 30*
II. *Fees for sera and vaccines.*	
(i) Sera :—	
(*a*) Determination of exact titre	75
(*b*) Determination that sample is up to titre specified	50
(ii) Vaccines :—	
(*a*) Examination in which an animal test is employed	50
(*b*) Examination in which an animal test is not employed	25
III. *Fees for other drugs to be examined according to specifications of a Pharmacopoeia*	20 to 30*
IV. *Fees for patent and proprietary preparations.*	
For the assay of one ingredient	20
For each additional ingredient	10 subject to a maximum total fee of Rs. 70*
V. *Crude drug* (depending on the number of tests to be carried out).	20 to 70*

* The exact amount of the fee shall be determined in each case by the Director or the Government Analyst as the case may be.

[No. F.1-23/54-DS.]

New Delhi, the 14th October 1954

S.R.O. 3261.—The following draft of a further amendment in the Drugs Rules, 1945, which it is proposed to make after consultation with the Drugs Technical Advisory Board, in exercise of the powers conferred by sections 12 and 33 of the Drugs Act, 1940 (XXIII of 1940), is published as required by the said sections, for the information of persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after the 23rd January 1955.

2. Any objection or suggestion which may be received from any person in respect of the said draft before the date specified will be considered by the Central Government.

Draft Amendment

For sub-rule (1) of rule 94 of the said Rules, the following sub-rule shall be substituted, namely:—

"(1) Labels on packages or containers of products for export shall be adapted to meet the specific requirements of the regulations of the country to which the product is to be exported and the following particulars shall appear in a conspicuous position on the innermost container in which the drug is packed and every other covering in which that container is packed:—

(a) proper name of the drug;

(b) the name, address and licence number of the manufacturer;

(c) batch or lot number;

(d) date of expiry, if any."

[No. F.1-1/53-DS.]

New Delhi, the 15th October 1954

S.R.O. 3262.—In exercise of the powers conferred by section 12 and 33 of the Drugs Act, 1940 (XXIII of 1940), the Central Government, after consultation with the Drugs Technical Advisory Board, hereby directs that the following further amendments shall be made in the Drugs Rules, 1945, the same having been previously published as required by the said sections, namely:—

A. In the said Rules—

(1) in rule 2—

(a) for clause (f) the following clause shall be substituted, namely:—

"(f) 'retail sale' means a sale other than a sale by way of wholesale dealing;";

(b) clause (g) shall be relettered as clause (h), and before clause (h), as so relettered, the following clause shall be inserted, namely:—

"(g) 'sale by way of wholesale dealing' means sale to a person for the purpose of selling again and includes sale to a hospital, dispensary, medical, educational or research institution and to a registered medical practitioner for supply to his own patients;";

(2) in sub-rule (1) of rule 37, the brackets and figure "(1)" shall be omitted and sub-rule (2) shall be omitted;

(3) to rule 74, the following clause shall be added, namely:—

"(e) the licensee shall either—

(i) provide and maintain to the satisfaction of the licensing authority adequate staff and adequate laboratory facilities for carrying out such tests of the strength, quality and purity of the substance's manufactured by him as may be required under the provisions of these rules, or

(ii) make arrangements with some institution approved of by the licensing authority for such tests to be carried out regularly on his behalf by that institution.";

(4) for sub-rule (5) of rule 101, the following sub-rule shall be substituted, namely:—

"(5) In the case of a preparation included in the British Pharmacopoeia or the British Pharmaceutical Codex or in any other prescribed pharmacopoeia or any dilution or admixture of such a preparation

or a surgical dressing for which a standard is prescribed in the British Pharmaceutical Codex, if the container is labelled with the name used to describe the article in the British Pharmacopoeia or the British Pharmaceutical Codex or in any other prescribed pharmacopoeia with the addition of letters "B.P.", or "B.P.C." or such letters as may be recognised abbreviations for other prescribed pharmacopoeias, it shall not be necessary to state on the label the quantity of alcohol or the proportion of the substance specified in Schedule E contained in the preparation."; and

(5) in rule 102, the words and figures "and tested for sterility by the processes prescribed by Rules under the Drugs Act, 1940" shall be omitted.

B. In the Schedules annexed to the said Rules—

(1) in Schedule A—

(a) in Form 3, for paragraph 4 the following paragraph shall be substituted, namely:—

"4. A fee of rupees fifty has been credited to Government under the head of account "XXVII—Medical—Miscellaneous—Fees under the Drugs Rules, 1945—Central"—*vide* treasury receipt attached.";

(b) at the end of Form 6, the following paragraph shall be added, namely:—

"2. A fee of rupees fifty has been credited to Government under the head of account "XXVII—Medical—Miscellaneous—Fees under the Drugs Rules, 1945—Central"—*vide* treasury receipt attached.";

(c) at the end of Form 8, the following paragraph shall be added, namely:—

"A fee of rupees ten has been credited to Government under the head of account "XXVII—Medical—Miscellaneous—Fees under the Drugs Rules, 1945—Central"—*vide* treasury receipt attached;"

(d) in Form 14-A, after item 6, the following item shall be inserted, namely:—

"7. A fee of rupees ——————*vide* Schedule B to the Drugs Rules, 1945, has been credited to Government under the head of account "XXVII—Medical—Miscellaneous—Fees under the Drugs Rules, 1945,—Central/State"—*vide* treasury receipt attached.";

(e) in Form 19, after item 4, the following item shall be inserted, namely:—

"5. A fee of rupees five/ten has been credited to Government under the head of account "XXVII—Medical—Miscellaneous—Fees under the Drugs Rules, 1945—Central/State"—*vide* treasury receipt attached.";

(f) for Form 21 the following shall be substituted, namely:—

"[*See* rule 61(2)]

Licence to sell, stock and exhibit for sale and distribute biological and special products specified in Schedule C.

.....is hereby licensed to sell, stock and exhibit for sale and distribute on the premises situated at .....the following categories of drugs listed in Schedule C to the Drugs Rules, 1945.

Categories of drugs:

2. This licence shall be in force for two years from the date of issue of licence,.....

*3. Name(s) of qualified person(s) in charge .....

4. The licence is subject to the conditions stated below and to the provisions of the Drugs Act, 1940 and the rules thereunder.

Date ..... Licensing Authority

Conditions of licence

1. This licence shall be displayed in a prominent place in the premises open to the public.

*If the licence is required for wholesale dealings only delete the word "wholesale".

2. The licensee shall report forthwith to the licensing authority any change in the qualified staff in charge.

3. No drug to which this licence applies shall be sold unless the precautions necessary for preserving the properties of the contents have been observed throughout the period during which it has been in the possession of the licensee.

4. If the licensee wants to sell, stock and exhibit for sale or distribute, during the currency of the licence additional categories of drugs listed in Schedule 'C' but not included in this licence, he should apply to the licensing authority for the necessary permission. This licence will be deemed to extend to the categories of drugs in respect of which such permission is given. This permission shall be endorsed on the licence by the licensing authority.";

(g) in Form 24, after item 3, the following item shall be inserted, namely:—

"4. A fee of rupees twenty has been credited to Government under the head of account "XXVII—Medical—Miscellaneous—Fees under the Drugs Rules, 1945,—Central/State"—*vide* treasury receipt attached.";

(h) in Form 27, after paragraph 3 the following paragraph shall be inserted, namely:—

"4. A fee of rupees twenty and an inspection fee of rupees one hundred
An inspection fee of rupees thirty

has been credited to Government under the head of account "XXVII—Medical—Miscellaneous—Fees under the Drugs Rules, 1945,—Central/State"—*vide* treasury receipt attached.";

(2) in Schedule E—

(a) to the entry "Creosote from wood" the following shall be added, namely:— "except substances containing less than 50 per cent. of creosote";

(b) to the entry relating to Phenols, the following shall be added, namely:—

"except medicines with less than 1 per cent. of Phenol, nasal sprays, mouth washes, pastilles, lozenges, capsules, pessaries, ointments or suppositories containing less than 2·5 per cent. of phenol"; and

(3) in Schedule J—

(a) the entry "Lunacy" shall be omitted; and

(b) after the entry "Infantile Paralysis", the entry "Insanity" shall be inserted.

[No. F.1-3/51-DS.]

New Delhi, the 16th October 1954

S.R.O. 3263.—In pursuance of section 3 of the Pharmacy Act, 1948 (VIII of 1948), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Health No. F.7-26/53-DS, dated the 23rd June, 1954, namely:—

In the said notification, under the heading "Nominated by State Governments under clause (h)" for entry 32, the following entry shall be substituted, namely:—

"32. Dr. K. N. Sinha, M.B., B.S., F.R.F.P.S. (Glas.) Professor of Pharmacology, Medical College, Nagpur."

[No. F.7-26/53-DS.]

KRISHNA BIHARI, Under Secy.

New Delhi, the 14th October 1954

.—Dr. M. C. Misra, M.B., B.S. D.O.M.S. (London), Professor of , S. R. C. B. Medical College, Cuttack has been duly elected as a e Medical Council of India, under clause (b) of sub-section (1) of e Indian Medical Council Act, 1933 (XXVII of 1933), with effect rch, 1954.

[No. IMC/3/2.]

BABU RAM, Under Secy.

MINISTRY OF TRANSPORT

(Transport Wing)

CORRIGENDUM

New Delhi, the 14th October 1954

S.R.O. 3265.—In the Order of the Government of India in the Ministry of Transport, dated the 1st September, 1954, published as S.R.O. 2954 at pages 2209-2210 of the *Gazette of India* Part II—Section 3, dated the 11th September, 1954—

(1) in clause (c) of paragraph 1 at page 2209, *for* the words "on that subjects" *substitute* the words "on that subjects"; and

(2) in paragraph 2 at page 2210, in the substituted paragraph 17(1)(a), *for* the word "bunds" *substitute* the word "bunks".

[No. 55-MA(19)/54.]

MERCHANT SHIPPING

New Delhi, the 14th October 1954

S.R.O. 3266.—In pursuance of clause (a) of sub-section (1) of section 213B of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government hereby declares that the Governments of Egypt and the Polish People's Republic have accepted the Safety Convention as defined in clause (d) of section 213-A of the said Act, that is to say, the Convention for the Safety of Life at Sea signed in London on the tenth day of June, nineteen hundred and fortyeight, as amended from time to time.

[No. 46-MA(7)/54.]

S.R.O. 3267.—In exercise of the powers conferred by sub-section (2) of section 245G and sub-section (1) of section 245J of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government hereby directs that the following amendment shall be made in the Indian Merchant Shipping (Safety Convention Certificates) Rules, 1954, the same having been previously published as required by sub-section (1) of section 245J of the said Act, namely:—

After clause (v) of sub-rule (1) of rule 4 of the said Rules, the following clauses shall be inserted, namely:—

"(vi) For each additional copy of the Safety Equipment Certificate—Rs. 16.

(vii) For each additional copy of the Safety Radio-telegraphy Certificate, Safety Radio-telephony Certificate, Safety or Qualified Safety Certificate and Exemption Certificate—Rs. 8."

[No. 46-MA(2)/54.]

New Delhi, the 19th October 1954

S.R.O. 3268.—In exercise of the powers conferred by sub-section (5) of section 25A of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government makes the following rules, namely:—

PART I.—GENERAL

1. (i) These rules may be called the Indian Merchant Shipping (Seamen's Employment Office, Calcutta) Rules, 1954.

(ii) They shall come into force with effect from such date as the Central Government may, by notification in the Official Gazette appoint.

2. In these rules, unless the context otherwise requires—

(i) 'Act' means the Indian Merchant Shipping Act, 1923 (XXI of 1923);

(ii) 'Appellate Authority' means such person or body of persons as may be appointed in this behalf by the Central Government;

(iii) 'Board' means the Seamen's Employment Board set up under rule 5;

(iv) 'Company Roster' means the Roster of Seamen prescribed in rule 22;

(v) 'Employment Office' means the Seamen's Employment Office, Calcutta, established in accordance with the provisions of Section 25A of the Indian Merchant Shipping Act;

(vi) 'General Roster' means the Roster of seamen prescribed in rule 19;

(vii) 'Medical Authority' means Medical Officer or Officers appointed under rules framed under section 26A for the medical examination of seamen;

(viii) 'prescribed' means prescribed by the Director General of Shipping;

(ix) 'registered' means registered at the Employment Office in accordance with the provisions of these rules;

(x) 'roster' means either the General Roster prescribed in rule 19 or the Company Roster prescribed in rule 22 as the case may be;

(xi) 'Section' means a section of the Act;

(xii) 'Shipowner' includes his agent or representative;

(xiii) 'the Director' means the Director of the Employment Office;

(xiv) 'the Register' means the Register of Seamen provided for in rule 11.

3. All words and expressions not defined in these rules but defined in the Act, shall, unless the context otherwise requires, have the same meanings as respectively assigned to them under the Act.

4. (1) The Central Government shall appoint a Director and, if necessary, one or more Deputy and Assistant Directors, for the Employment Office.

(2) Subject to the general or specific orders of the Director, a Deputy Director or an Assistant Director may perform any functions of the Director and any functions so performed shall be deemed to have been performed by the Director.

(3) Notwithstanding anything contained in sub-rules (1) and (2), the Central Government may appoint any person to perform such functions in relation to the Employment Office as may be assigned to him, and when such person is so appointed, any reference in these rules to the Director shall be construed as a reference also to such person in respect of the functions so assigned to him.

PART II.—SEAMEN'S EMPLOYMENT BOARD

5. (1) The Central Government shall, as soon as may be after the publication of these rules, establish, by notification in the Official Gazette, a Seamen's Employment Board.

(2) The Board shall consist of such number of members representing the Government, shipowners and seamen as the Central Government may, from time to time, determine.

(3) The members of the Board representing the Central Government, shipowners and seamen shall, as far as possible, be equal in number and shall be appointed by the Central Government: Provided that the members representing the shipowners and seamen shall be appointed after consultation with the interests concerned.

(4) The Chairman of the Board and, if necessary, a Vice-Chairman shall be appointed by the Central Government from among the members representing the Government on the Board.

(5) The functions of the Board, in addition to those specified in these rules, the term of office of members, the manner of filling vacancies among members and the procedure for the conduct of the business of the Board shall be such as may be determined from time to time by the Central Government;

(6) Members representing shipowners and seamen shall be entitled to receive such fees for attending the meetings of the Board and of its sub-committees, if any, as may from time to time be fixed by the Central Government;

(7) No act done or proceeding taken by the Board under these rules shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

PART III.—REGISTRATION

6. With effect from a date to be notified in the Official Gazette by the Director General of Shipping, no person shall be eligible for engagement as a seaman at Calcutta unless he is duly registered at the Employment Office and is in possession of a Registration Book issued under rule 14.

7. No person shall be eligible for registration at the Employment Office unless he—

(i) (a) holds a valid Continuous Discharge Certificate issued from Calcutta; or

(b) holds a valid Continuous Discharge Certificate issued from any other port in India and has been customarily recruited from Calcutta;

(ii) holds a valid certificate of physical fitness issued by a Medical Authority; and

(iii) is within such age limits as may be prescribed from time to time;

provided that in exceptional circumstances and for reasons to be recorded in writing, the Director may permit the registration of any person not satisfying any of the above requirements.

8. Applications for registration shall be made in such form and shall be accompanied by such documents as may be prescribed by the Director.

9. An application for registration shall be made personally by the applicant and shall be presented to such official and between such hours of the day as the Director may from time to time appoint in this behalf.

10. All applications for registration duly submitted shall be scrutinised and the names of such applicants as satisfy the requirements of rule 7 shall be approved for registration by the Director.

Provided that, for sufficient reasons recorded in writing, the Director may in his discretion reject any such application.

11. The Director shall cause the particulars of all persons approved for registration to be entered in a Register of Seamen.

12. The Register of Seamen shall be maintained in such form as the Director may prescribe.

13. The Director shall allot to each seaman accepted for registration, a distinct Registration Number which shall be prominently marked on all official documents issued to the seaman.

14. A Registration Book prepared in such form as the Director may prescribe shall be issued to every seaman registered at the Employment Office.

15. Once the name of a person has been registered at the Employment Office, it shall continue to be so registered until it is cancelled or removed from the Register in accordance with the provisions of rules 49 and 50.

16. If upon scrutiny under rule 10, the Director rejects an application, he shall inform the applicant in writing of the reasons for such rejection.

17. Any person whose application is rejected may, within 30 days of his being informed of such rejection, appeal to the Appellate Authority, whose decision in the matter shall be final.

18. Notwithstanding anything contained in these rules but always subject to the provision of rule 7, the Director General of Shipping may, in exceptional circumstances, by an order in writing, declare that any individual seaman or group of seamen, or any Class or Category of Seamen shall be deemed to have been registered at the Employment Office and thereafter it shall not be necessary for such seaman, group of Seamen or Class or Category of Seamen to apply for registration.

PART IV.—ROSTERS

19. The Director shall cause a General Roster of seamen to be maintained in such form as he may prescribe and in accordance with the rules hereinafter contained.

20. The names of only such seamen shall be entered on the Roster as are registered at the Employment Office.

21. The General Roster shall have separate sections for such categories of seamen as may be prescribed after consultation with the Board.

22. On application by a shipping company or a group of shipping companies, the Director may maintain separate rosters for all or any of the categories in respect of the seamen customarily employed by that shipping company or group of shipping companies. Such rosters shall be called "Company Rosters".

23. The name of a seaman may be entered in the General Roster or in a Company Roster but not in both:

Provided that no name shall be entered in a Company Roster unless the Company and the seamen concerned have consented in writing to such name being so entered.

24. Once a seaman is accepted for a Company Roster, his name shall continue to be so entered until a change in this behalf is permitted by the Director on the request either of the seaman or the shipping company. The Director shall not, save in exceptional circumstances, permit such change oftener than once in any year.

25. The Shipping Master of the port shall give prior intimation of the time of all discharges of seamen to the Director.

26. For the purpose of facilitating registration or compilation of Rosters, the Director may be present at the time of any discharge.

27. A shipowner who discharges crews at Calcutta or discharges, at any other place, crews which had been recruited through the Employment Office, shall furnish the names and other particulars of such seamen to the Director in such form as he may prescribe.

28. Names shall be entered in the Rosters in accordance with such procedure as may be prescribed after consultation with the Board. A name thus entered shall continue to be borne on the Roster until it is cancelled under rule 40 or sub-rule (i) of rule 51.

PART V.—SUPPLY OF SEAMEN

29. All shipowners seeking to engage seamen at Calcutta shall furnish to the Director indents for the various categories of seamen in respect of specific ships as soon as such requirements become known and, in any case, not less than fifteen days in advance of the date when the seamen are actually required. In urgent cases, the Director may, in relaxation of the preceding requirement, accept such indents from the shipowners at shorter notice.

30. On receipt of indents from shipowners, the Director shall arrange to call up the requisite number of seamen from the appropriate roster in accordance with such procedure as may be prescribed after consultation with the Board.

31. Seamen who report to the Employment Office on or before the due date in response to the call under rule 30 shall be eligible for employment in the order in which their names stand in the relevant rosters.

32. Seamen who report to the Employment Office after the due date shall be eligible for employment in such order as may be prescribed after consultation with the Board.

33. Seamen who are eligible for employment shall be issued Muster Cards indicating the order of their eligibility for employment, provided that—

(i) their certificate of physical fitness is valid; and

(ii) that they possess requisite health certificate for international travel.

34. Seamen who are issued Muster Cards may be required by the Director to be present at the Employment Office during such hours as the Director may notify.

35. The Director shall offer to shipowners the services of the seamen of each category as are eligible and available for employment on the principle of rotation.

36. (1) A shipowner shall as a rule engage seamen for employment in the order in which they are offered:

Provided that, for reasons stated to the satisfaction of the Director—

(a) the shipowner may reject any seaman so offered; and

(b) any seaman may refuse engagement on any ship for which he is proposed or selected.

(2) The Director General of Shipping may, after consulting the Board, lay down guiding principles for enabling the Director to determine whether the reasons advanced for rejecting a seaman or a ship are satisfactory.

37. When requisite eligible seamen are not available for employment the Director may, notwithstanding anything contained in these rules, offer to a shipowner the services of any persons who are available for employment, provided that the shipowner shall be free to reject any of the persons so offered.

38. When a shipowner requires a substitute in the place of a seaman who was previously recruited through the Employment Office and whose services are, within 24 hours before the ship is due to sail, lost by death, desertion or other unforeseen cause, the recruitment shall, where practicable, be made through the Employment Office, but when not so practicable, the shipowner may recruit a person of his choice but he shall as soon as possible furnish to the Director of the Employment Office full particulars of the substitute so recruited.

39. If at any time the Director General of Shipping finds that the available volume of employment is inequitably distributed between Company Rosters and General Roster or between Company Rosters *inter se* he shall, after consulting the Board, take such action as may be necessary to bring about equitable distribution.

40. When a seaman has been selected and engaged, his name in the roster shall stand cancelled.

41. Notwithstanding anything contained in these rules, the Director may permit shipowners to re-engage such seamen as are discharged before the completion of such period of service as the Director General of Shipping may from time to time prescribe after consulting the Board.

42. The cases of all seamen who fail to get selected on three successive occasions when their services are offered to the shipowners shall from time to time be reviewed by the Director in accordance with such principles and procedure as may be prescribed after consulting the Board.

PART VI.—MISCELLANEOUS

43. Seamen shall be eligible for promotion from one category to another on the basis of such principles as may be laid down by the Director General of Shipping after consultation with the Board. All promotions shall be sanctioned by the Director on the basis of principles thus laid down.

44. Promotions during voyage may be sanctioned by the shipowners, but such promotions shall be temporary and shall not entitle the seamen to be put on the roster of the categories to which they may have been thus temporarily promoted, unless the Director sanctions the promotions permanently in accordance with the provisions of rule 43.

45. In the event of a Registration Book being torn, mutilated or lost, a displicate may be issued to the seaman concerned on payment of a fee of Rs. 2 only.

46. Notwithstanding anything contained in these rules—

(a) all persons employed by shipowners on a permanent basis and in respect of whom one or more declarations to this effect are filed by the shipowners concerned at the Employment Office; and

(b) all persons employed as Clerks, Wireless Operators, musicians or Vishiwallas or in any other capacity specified in this behalf by the Director,

shall for the purpose of sub-section (3) of section 25A be deemed to have been engaged through the Employment Office and nothing in these rules shall apply to the employment of such persons.

47. The Director shall exercise his powers under these rules subject to the supervision, direction and control of the Director General of Shipping and of such other Officer as the Central Government may appoint in this behalf.

48 For the purpose of preventing seamen from being taken on board any ship in contravention of the provisions of these rules, the Director, Deputy Director or Assistant Director of the Employment Office or any other person duly authorised by the Central Government in this behalf may enter at any time on board any such ship upon which he has reason to believe that seamen from the port where the Employment Office is in existence have been shipped, and may muster and examine the several seamen employed therein.

49. (1) The Director may cancel, under advice to the shipping company in the event of the man being on the Company Roster, the registration of a seaman permanently or he may suspend the seaman's registration for any specified period of time when the Shipping Master reports that a seaman has been adversely reported upon by the shipowner in respect of character, discipline or ability, or that he has been found guilty of any of the following:—

(a) offences, such as smuggling or theft;

(b) desertion;

(c) misbehaviour during the period of engagement.

(2) The Director may also cancel the registration of a seaman permanently or he may suspend the Seaman's registration for any specified period of time—

(a) on his being found guilty of misbehaviour within the premises of the Employment Office; or

(b) on his being found guilty of using or attempting to use a false document or making a false declaration for getting his name registered at the Employment Office or for obtaining employment through the Employment Office.

Explanation.—Any person found in possession of a false document within the premises of the Employment Office shall be deemed to have attempted to obtain employment by using the false document.

50. The Director shall cancel the registration of a seaman—

(i) on his attaining such age as the Director General of Shipping may from time to time, after consultation with the Board, specify for the retirement of persons from the seafaring profession;

(ii) on his being declared permanently unfit for the seafaring profession by a Medical Authority;

(iii) on his giving or offering or attempting to give or offer directly or indirectly any illegal gratification to any official of the Employment Office or to any other person

51. (i) The name of any seaman whose registration is cancelled or suspended shall be removed from the roster in which it may have been entered earlier.

(ii) The name of a seaman whose registration is suspended only for a specified period of time may be re-entered in the roster at the bottom, on the date of the expiry of the period of suspension.

52. A seaman whose registration is cancelled or suspended by an order of the Director, may, within thirty days of his being informed of such order, appeal to the Appellate Authority, whose decision shall be final.

PART VII.—TEMPORARY AND TRANSITIONAL PROVISIONS

53. Any seaman on Articles at the time when these rules come into force shall upon discharge, if he is desirous of further recruitment as seaman at Calcutta, apply to the Director for registration at the Employment Office.

54. Any seaman off Articles at the time when these rules come into force if he is desirous of recruitment as seaman at Calcutta shall apply for registration at the Employment Office.

55. Notwithstanding anything contained in these rules, names of seamen who apply for registration under rule 53 shall be entered in the roster in accordance with such procedure as may be prescribed after consultation with the Board.

56. Notwithstanding anything contained in these rules, the Director may, in respect of seamen off Articles when these Rules come into force and who are accepted for registration, maintain separate *ad hoc* rosters in accordance with such procedure as may be prescribed after consultation with the Board.

57. Notwithstanding anything contained in Parts II, IV and V of these rules, the Director General of Shipping may at the inception of the Employment Office and until such time thereafter not exceeding six months as he may consider necessary, prescribe after consultation with the Board such procedure for the registration, supply and promotion of seamen as he may deem appropriate.

58. Where in these rules the Director General of Shipping is required to act after consultation with the Board, he may, until the establishment of the Board, act in his discretion provided that any action so taken shall, as soon as may be after the establishment of the Board, be brought to the notice of the Board, and the Director General may, after ascertaining the views of the Board, take such further action as he may deem appropriate.

[No. 14-MS(41)/54.]

S. K. GHOSH, Dy. Secy.

MINISTRY OF COMMUNICATIONS

(Posts and Telegraphs)

New Delhi, the 19th October 1954

S.R.O. 3269.—In exercise of the powers conferred by section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Central Government hereby directs that the following further amendment shall be made in the Indian Telegraph Rules, 1951, namely:—

(a) For the first sentence in sub-rule (1) of rule 451 of the said Rules, the following sentence shall be substituted, namely:—

"Subscribers, other than those who have connections rented by Government, may when they first make use of the telephone service, be called upon by such officer as may be authorised in this behalf by the Director General to make a deposit of (i) Rs. 100 against trunk service and Rs. 20 against message rate service in the case of connections provided on a monthly or casual rate basis at hill stations and (ii) Rs. 10 against trunk service and Rs. 20 against message rate charges in the case of other connections at hill stations and in the case of all connections at places other than hill stations."

(b) In rule 451 the following "Explanation" shall be inserted:—

"*Explanation.*—For the purposes of this rule, the expression "hill station" means any place which the Director-General may declare to be a hill station."

[No. R-3-29/52.]

V. M. BHIDE, Dy. Secy.

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 19th October 1954

S.R.O. 3270—In this Ministry's Notification No. 1400-TG, dated the 25th September, 1954, published in the *Gazette of India*, Part II—Section 3, dated the 2nd October, 1954, for the entries shown in columns 2 and 3 of the statement the following shall be inserted:—

(2)	(3)
Ferro Silicon	
15 per cent and above.	In casks, cases, sacks or drums. 80 per cent and over in fine powder in casks or drums.
Ferro silicon Less than 15 per cent	

[No. 1400-TG.]

RANJIT SINGH,
Director, Traffic (Transportation).

MINISTRY OF NATURAL RESOURCES AND SCIENTIFIC RESEARCH

New Delhi, the 13th October 1954

S.R.O. 3271.—In exercise of the powers conferred by Section 5 of the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948), the Central Government hereby directs that the following further amendment shall be made in the Mineral Concession Rules, 1949, namely:—

To sub-rule (3) of rule 28 of the said Rules, the following proviso shall be added, namely:—

"Provided that in respect of a mining lease applied for in pursuance of rule 24, the said fee shall not be refunded, unless the State Government refuses to grant the lease to the legal representative or he refuses to accept the lease on account of any special condition imposed therein under sub-rule (3) of rule 41."

[No. MII-152(239)/53.]

T. GONSALVES, Dy. Secy.

MINISTRY OF WORKS, HOUSING AND SUPPLY

New Delhi, the 19th October 1954

S.R.O. 3272.—In exercise of the powers conferred by section 22 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952), the Central Government hereby directs that the following amendment shall be made in the Requisitioning and Acquisition of Immovable Property Rules, 1953, namely:—

To sub-rule (1) of rule 9 of the said Rules, the following words shall be added, namely:—

"or of any officer authorised by that Government in this behalf."

[No. 8855-EII/54.]

K. K. SHARMA, Dy. Secy.

MINISTRY OF LABOUR

New Delhi, the 12th October 1954

S.R.O. 3273.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Madurai, in the industrial dispute between the employers in relation to the Dalmia Cement (Bharat) Limited, Dalmiapuram, and their workmen in the quarries of the Company.

BEFORE THE INDUSTRIAL TRIBUNAL AT MADURAI

Monday, the 20th September 1954

PRESENT

Sri E. Krishnamurthi, M.A., B.L., Industrial Tribunal at Madurai.

Industrial Dispute Nos. 65 of 1953, 68 of 1953 and 278 (Central) of 1953.

INDUSTRIAL DISPUTE NOS. 65 AND 68 OF 1953

BETWEEN

The workers working in Dalmia Cement (Bharat) Limited, Dalmiapuram, represented by the Dalmia Cement Workers' Union, Dalmiapuram—*Petitioners.*

AND

The management, Dalmia Cement (Bharat) Limited, Dalmiapuram, Tiruchirapalli District—*Respondents.*

INDUSTRIAL DISPUTE NO. 278 (CENTRAL)/1953

BETWEEN

The workers employed in the quarries of the Dalmia Cement (Bharat) Limited, Dalmiapuram, represented by the Dalmia Cement Workers' Union, Dalmiapuram—*Petitioners.*

AND

The management, Dalmia Cement (Bharat) Limited, Dalmiapuram, Tiruchirapalli District—*Respondents.*

Mr. G. Ramanujam and Mr. I. M. Moinuddin, Vice-President, Dalmia Cement Workers' Union, Dalmiapuram—*For workers.*

Mr. S. C. Aggarwal, Secretary and Mr. R. N. Roy, Manager, Dalmia Cement (Bharat) Limited, Dalmiapuram—*For the management.*

AWARD

I.D. No. 65 of 1953

By G.O.Ms. No. 4595, Development Department, dated 13th October, 1953, the disputes between the workers and the management of the Dalmia Cement (Bharat) Limited, Dalmiapuram, have been referred to this Tribunal for adjudication.

2. It is alleged in the statement of demands filed on behalf of the Dalmia Cement Workers' Union, Dalmiapuram, that the Dalmiapuram Cement works was started in 1939, that the wages paid by the management are very low, and are not even half the living wage, that the living wage of the workers is a first charge on the industry, that the Union is prepared to accept Rs. 35 as minimum wage, that there must be upward revision of grades, that time-scale and service weightage with efficiency bar, should be introduced, that dearness allowance should be increased to 4 annas per point over 100 points in the cost of living index, that night allowance should be given for night shift workers, that additional bonus of two months should be paid for 1952, that the workers are entitled to regular attendance allowance including those on sanctioned leave, that the piece-rated workers should be given house rent allowance, that all workers should be given house rent allowance at the rates applicable to the clerical staff, that the piece-rated workers must be guaranteed a minimum wage, that when a piece-rated worker is not given the minimum work by the management he must be given full occupational minimum wages and dearness allowance, that payment should be made at double the rate, per unit of production, over the norm fixed, to piece-rated workers, that various categories of piece-rated workers should be brought under the time rates, that annual increases should be given to all piece-rated workers, that the rules regarding gratuity need revision, that free uniforms should be supplied to the various categories of workers detailed in the statement of demands, that heat allowance should be given to certain categories of workers considering the conditions of excessive heat under which they have to work, that hats and shoes should also be supplied along with uniforms, that there should be no interference with the existing piece-rate workloads, and that any award that may be passed should take effect from 25th July, 1953, the date on which both parties agreed to have the matter referred for adjudication.

3. In the counter it is alleged, that the capacity of the industry is extremely limited and cannot bear the burden of any further increase in labour costs, whether by way of increase in wages or in amenities, that in the award, dated 3rd April, 1951, the demand for increased wages was not allowed, that in spite of this the minimum wage was increased from 12 annas per day to 14 annas per day, that this company cannot stand comparison with Messrs. A.C.C. as the latter is a very big concern owning 12 factories and producing 57 per cent. of the total cement produced in the country, that there are also a few small industries which have been set up at Dalmiapuram, that any further increase in minimum wages so far as the workers of these industries are concerned would mean their closure as the products would be unable to compete on account of high costs, that expenditure for three consumption units which is taken as the normal for an average working class family cannot be more than Rs. 22-10-0, that in considering the question of wages the various amenities which are provided by the company to the workers must also be taken into account, that the demand of the Union for the minimum basic wage of Rs. 35 per month is not just and proper and has no precedent, that there is no case made out for revision of grades, that the grades in force were negotiated with the Union and settled in terms of an agreement arrived at on 1st August, 1948, that frequent revision of grades is not desirable, that the grades now in force were approved in the award published in the Gazette, dated 3rd April, 1951, that no adequate

reasons exist for justifying any revision in the grades, that the demand for the introduction of time-scales and service weightage with efficiency bar is also untenable, that the system of grades prevailing in the company is simple and is working satisfactorily and does not require any interference, that there is no case made out for increase in the rate of dearness allowance, that there is no justification for the demand for payment of night allowance, that cement manufacture is a continuous process, that night shift working is an accepted feature of employment and no separate allowance for the same is justified, that the demand for additional bonus for 1952 is also untenable, that the company has already made payment to the workers of bonus against the year 1952 at the rate of 1/6th of their basic earnings, that the financial position of the company does not warrant the giving of any thing more, that there is no available surplus even on the basis of the formula laid down by the Labour Appellate Tribunal justifying payment of more bonus, that the workers employed in the small scale industries make no contribution to the profits earned by the cement factory, that as such the bonus, if any, payable to these workers should be determined on the basis of working results of the respective industries in which the workers in question might be employed, that the grant of regular attendance allowance is discretionary as an incentive payment, that the demand that this allowance should be given to all workers including those on leave is unreasonable, that this company alone is granting house-rent allowance to its employees, that it is not the responsibility of the employer to provide housing to its labour and staff, that the demand for house rent allowance cannot be upheld, that there is no justification for giving house-rent allowance to all workers at the rates applicable to the clerical staff, that the demand for house-rent allowance to piece-rated workers must be rejected, that there is no justification in the demand of the Union in the matter of grant of leave facilities, that with reference to the demand for guaranteeing minimum wages to piece-rated workers, there is an agreement dated 29th March, 1952, that, however, the question of payment of compensation to workers for the period for which they are not provided with work has been settled by Government and the company will have to follow the same, that with reference to the demand for payment of double the rates per unit of production over the normal work-loads the workers deliberately refuse to earn more by not working for all the full 8 hours, that at the instance of the Union, the workers sit idle after a part of their daily hours, that the management offered to pay piece-rate and half for work turned out in excess of the work-load, that this system is working in some of the departments, that, however, in the packing house, the workers have coerced the company into paying double the rate as otherwise heavy demurrage would have to be incurred, that the excess payment is being extorted from the management without justification that directions should be given that workers must work for the entire period of the shift irrespective of the fact whether or not they have completed the work-load, that the question of any increase in rates as a matter of incentive is for the management to decide, and should be left to the company, that piece-rates having been agreed to between the company and the workers, this Tribunal has no jurisdiction to order any increase in rates as demanded by the Union, that there is no basis for the contention of the Union that piece-rate working should be altered to time-rate working, that this is not in the interests of either of the management or of the workers, that no annual increments can be granted to piece-rated workers when they enjoy a welcome flexibility of earnings, that this would also lead to annual increase in piece-rates which will lead to complications, that the rules about gratuity can be revised only in the manner set out in the counter, that the company is already supplying uniforms to a large category of workers, that uniform cannot be considered to be an occupational necessity, that the occupations where uniform is necessary are mentioned in the Factories Act, that the demand of the Union for supply of uniforms is misconceived, that heat is normally present in all manufacturing plants to a certain degree, that with reference to the demand for supply of shoes and hats the remarks as made by the company in respect of uniforms are applicable, that the current work-loads in the different piece-rated jobs were settled by an agreement made with the Union on 12th November, 1951, that the work-loads now fixed are very low, that the workers are able to complete the minimum work-load in much less than their full duty hours and sit idle within the shift duty hours, that the minimum work-load should be increased, and the piece-rate should be revised as mentioned in the counter.

4. In the rejoinder filed the Union has reiterated its demands.

5. The following issues are framed:—

1. Should there be any increase in the basic wages, if so, what should be the amount of the said basic wage?

2. Should the grades of wages of the workers be revised, if so, what revision should be made?

3. Was there an agreement between the workers and the management regarding grades and award of the Tribunal, dated 3rd April, 1951 and whether no revision in grades is called for in view of the said agreement and the award of the Tribunal, as contended by the management

4. What time-scales and service weightage with efficiency bar should be introduced?

5. Whether increment for every two years of service should be given as service weightage?

6. Should there be any increase in the interim Bonus as per agreement, dated 25th July, 1953, if so, to what extent?

7. Whether the calculation of dearness allowance ought to be at the rate of As. 4 per point over the minimum of 100 points of cost of living index as contended on behalf of the workers?

8. Whether night allowance should be paid to night shift workers; if so, to whom should it be paid and how much?

9. Are workers entitled to bonus more than what has been voluntarily paid by the company for the year 1952; if so, to what additional bonus are they entitled?

10. Are workers employed in industries mentioned in paragraph 6(5) of the counter of the management not entitled to any bonus as contended by the management?

11. Whether regular attendance allowance to all workers should be paid?

12. Is payment of regular attendance allowance a matter entirely within the discretion of the management?

13. Can it be claimed as a matter of right by any workers?

14. Should such allowance be made payable even if workers are absent on sanctioned leave?

15. To what house rent allowance, if any, are piece-rated workers entitled?

16. Whether the rate of house rent allowance for all workers should be the same as for clerical workers?

17. Whether leave facilities should be granted to the factory workers to the same extent as for clerical workers?

18. Whether the piece-rated workers should be given full wages if they are not given work by management as per the work-load?

19. Is extra payment over and above the ordinary rate for the work turned out in excess of minimum work-load during working hours entirely within the discretion of the management?

20. Is there a substing agreement between the management and the workers operating against increase of piece-rates?

21. Whether payment of double the rate of wages and dearness allowance should be enforced for the quantity of work done over and above the minimum fixed for piece-rated workers?

22. Whether the piece-rated workers mentioned in paragraph 36 of the statement of demands be converted into time-rated monthly workers; if so, on what terms?

23. Should the piece-rated workers be given annual increase in their rates; if so, what annual increase should be given?

24. Whether the gratuity rules require revision as demanded by the workers in paragraph 39 of their statement of demands?

25. Should the gratuity rules be revised only as stated in paragraphs XIV.1 to XIV.14 of the counter of the management?

26. Whether free uniforms should be granted to the several workers as set out in paragraph 40 of the statement of demands of the workers?

27. Is clothing covered by the term 'wages' and is separate demand for free uniforms unnecessary as contended by the management?

28. Is uniform an occupational necessity for the workers mentioned in paragraph 40 of the statement of demands?

29. Should the workers be given free uniforms as contended by them; if so, how many and how often should the uniforms be given?

30. Should the workers mentioned in paragraph 41 of the statement of demands be given "heat allowance", if so, how much?

31. Should shoes and hats be supplied to kiln greasers, cooler attendents and all firemen?

32. Should the minimum work-loads be revised as per the statements referred to in paragraphs XVIII.9 of the counter of the management?

33. Should directions as demanded in paragraph XVIII.12 by the management be given in respect of piece-rated workers?

Additional Issue framed on 30th August, 1954:—

34. Was there an agreement by which the Union and management agreed that whatever adjudication there was should take effect from 25th July, 1953?

INDUSTRIAL DISPUTE NO. 68 OF 1953

6. By G.O.Ms. No. 4900, Industries, Labour and Co-operation, dated 25th November, 1953, the industrial dispute between the workers and the management of the Dalmia Cement (Bharat) Limited, Dalmiapuram, has been referred to this Tribunal for adjudication.

7. In the statement of demands, it is alleged, that loco drivers, loco firemen, pointsmen, refractory and pottery workers by the very nature of their work have to work in close contact with coal dust and fire, that their dress is liable to speedy decay, and that the said workers should be provided with three sets of uniforms annually free of cost.

8. In the counter, it is alleged, that the remarks made by the management in paragraph 15 of their counter in I.D. No. 65 of 1953 may be referred to, and that the demand should be rejected.

9. The following issue arises for determination:—

Whether free uniforms should be supplied to loco drivers, loco firemen and Refractory and Pottery workers and Pointsmen?

INDUSTRIAL DISPUTE NO. 278 (CENTRAL) OF 1953

10. By Order L.R. 4(348), dated 21st September, 1953 of the Ministry of Labour, Government of India, New Delhi, the industrial dispute between the workers and the management of Dalmia Cement (Bharat) Limited, Dalmiapuram, in the quarries of the company, has been referred to this Tribunal for adjudication.

11. It is alleged in the statement of demands, that in regard to items 5, 6, 7, 8 and 9 of the reference, the Union makes the same demands as set out in I.D. No. 65 of 1953, that in consequence of involuntary unemployment from March to June, 1953, the workers should be compensated at 50 per cent. of the basic wage and dearness allowance, subject to a maximum of 45 days wages, that the work of laying the permanent way in the quarries and removal of "murram" is being done by a contractor, that this work should legitimately be undertaken by the company itself, that there must be revision of work-loads, that the work-loads should be reduced, as mentioned in paragraph 10 of the statement of demands, that an extra hand must be provided in the case of loading whenever the lead and lift exceeds 50 feet and 5 feet, that the demand for outturn in excess of the minimum work-load will have to be paid at double the rates as stated in I.D. No. 65 of 1953, that if the minimum work-load could not be fulfilled on account of the failure on the part of the management to supply the necessary trucks full average wages with dearness allowance must be paid for those days, that Rs. 42 is being given to workers towards maternity benefit allowance, that this is inadequate, that it should be raised to Rs. 50 and that any award that may be passed by the Tribunal should take effect from 25th July, 1953.

12. The contention on behalf of the management is, that the ordinance referred to in the statement of demands has no retrospective application, that the Standing Orders cannot be disregarded, that the partial unemployment was due to power cut a cause beyond the control of the management, that settlements were arrived at between the parties, that in view of the settlement and the provision in the Standing Orders the demand of the Union is not just and proper, that the company has no contractor working in quarries, that all jobs of a permanent nature are being carried out departmentally by employment of piece-rated labour, that the work of laying permanent way and of removing 'murram' cannot be carried out by departmental labour, in view of the cost involved and in view of this being of an uncertain nature, that there is no case made out for decrease of work-loads as demanded by the Union, that on the contrary the

work-loads have been fixed at a low level and should be increased, that piece-rates also should be revised with a view to making the workers efficient, and enable them to give their full output during shift hours, that it is normal to carry up to a lead of 100 feet and lift upto 10 feet, that this is the standard practice, that the question of any payment for extra lead and lift does not arise, that with reference to the demand for payment of full wages in the event of non-supply of trucks, this demand has been dealt with in the counter in I.D. No. 65 of 1953, that grant of leave to workers in the mine is governed by the Mines Act, that the demand for sick leave and privilege leave is not justified, that the demand for increase in maternity benefit allowance is not justified, that the said payment is being made in conformity with the requirements of the Mining Act, that this company cannot bear comparison with Messrs. Associated Cement Companies Limited, Madhukkarai, that it was never agreed that the award of the Tribunal should take effect from 25th July, 1953, and that all the demands of the Union are neither just nor reasonable and should be rejected.

13. A rejoinder has been filed on behalf of the workers, affirming the demands.

14. The following issues were framed:—

1. Are workers entitled to compensation for involuntary unemployment during certain periods between March and June, 1953?
2. Are workers not entitled to compensation for involuntary unemployment during March to June, 1953 on account of the agreement alleged to have been entered into on 18th March, 1953 and to have been confirmed on 22nd March, 1953?
3. What compensation, if any, are the workers entitled for the aforesaid involuntary unemployment?
4. Should the work of laying the earth bund for shifting the Railway Line for quarries be carried out departmentally by the company direct instead of its being done through a contractor or casual labour, as at present?
5. Should the work of removal of over burden in quarries to any distance be carried out departmentally?
6. Should the present system of removing the said over burden by carts by entrusting the same to individual and independent cart owners of the vicinity, as is being done at present be continued as contended by the management?
7. Should there be revision of work-load for persons employed on (1) Hand Drilling, (2) Machine Drilling and Breaking and (3) Loading?
8. Should the work-loads be decreased as stated in paragraph 11 of the statement of demands of the workers?
9. Should the work-loads be increased as stated in paragraph 3.6 of the counter of the management?
10. Should extra hands be employed in case of lift and lead exceeding 5 feet and 50 feet, respectively, as demanded in paragraph 12 of the statement of demands?
11. Whether payments should be made for lift and lead?
12. Should payment be made for work done, if trucks are not supplied according to work-load?
13. Is extra payment over and above the ordinary rate for the work turned out in excess of the minimum work-load during working hours entirely within the discretion of the management?
14. Has the Tribunal no jurisdiction to increase the piece-rates against the agreement alleged to be subsisting therefor between the management and the workers?
15. Should the piece-rate for work turned out more than minimum work-load during normal working hours, be revised from one and a half times the ordinary rate, as is being paid at present to two times the ordinary rate as demanded by the workers?
16. Should the piece-rated workers be paid compensation for the period they are not provided with work, as laid down by the Industrial Disputes Act, or as demanded in paragraph 13 of the Statement of Demands of the Workers?
17. Whether there should be revision of basic wages?
18. Should the piece-rated workers be given annual increase in their rates, if so, what increase should be given?

19. What weightage, if any, should be granted for service?

20. To what privilege and sick leave are the workers entitled?

21. Should the workers be given leave more than what is prescribed by the Mining Act, if so, what extra leave should be given?

22. Should the workers be given house rent allowance; if so, what allowance should be given to them?

23. Should the dearness allowance, being paid by the company, be increased; if so, to what extent?

24. Whether the workers are entitled to any addition to the interim bonus granted under the agreement, dated 25th July, 1953 and if so, to what amount?

25. Whether any and what night allowance should be granted to night shift workers?

26. Should there be any increase in maternity benefit allowance; if so, by what amount should it be increased?

27. Whether directions as demanded in paragraph XVIII.12 of the counter of the management should be given in respect of picce-rate workers?

Additional Issue framed on 30th August, 1954:—

28. Was there an agreement by which the Union and the management agreed that whatever adjudication there was should take effect from 25th July, 1953?

15. The three disputes referred to above have been tried together at the request of parties and the common evidence has been recorded in I.D. No. 278 (Central) of 1953.

16. The disputes arise between the workers, and the management of Dalmia Cement (Bharat) Limited. The workers are represented by the Dalmia Cement Workers' Union, Dalmiapuram. The company's works are situated in Dalmiapuram, Tiruchirapalli District.

17. The case for the management is, that Dalmia Cement (Bharat) Limited is not a new name of an old company but is a new company altogether, and that Dalmia Cement (Bharat) has taken only the Indian Assets of Dalmia Cements Limited. It is admitted, that the Indian assets are in main the Dalmiapuram Cement Factory and the subsidiary industries located at Dalmiapuram. It is also admitted, that the company employs approximately about 2,000 workers including those employed in the quarries and mines and in the subsidiary industries. The subsidiary industries in question comprise the manufacture of (i) Refractory, (ii) Porcelain ware, (iii) Stone Pipes, (iv) Cement Pipes and (v) Insulators.

18. It is also common ground, that the company known as M/s. Dalmia Cements Limited is still functioning and that it comprises two cement factories at Karachi, and at Dandot, in Pakistan. Ex. W. 7 is the report of the directors and the statement of account for the year ended 31st December, 1951 of Dalmia Cement Limited. It is mentioned at page 4, that effect had been given to the scheme sanctioned by the Madras High Court for transferring the assets and liabilities in India, to the new Company M/s. Dalmia Cement (Bharat) Limited, and that adjustments consequent on the exchange of shares held by share holders, for shares in Dalmia Cement (Bharat) Limited, were effected in 1952. According to the evidence of Mr. Hinduja, M.W. 4, the Assistant Secretary of the Dalmia Cement (Bharat) Limited, the scheme by which Dalmia Cement (Bharat) Limited took over the Indian assets of Dalmia Cement Limited, and Dalmia Cement (Bharat) Limited, began to work from the beginning of 1952. In Ex. M. 52 is shown the valuation of assets in taking over. The further evidence of Mr. Hinduja is, that the entire share capital of the Dalmia Cement Limited, Pakistan, is owned by Dalmia Cement (Bharat) Limited, and the latter company owns shares in Orissa Cement. The total capital of Dalmia Cement Limited, Pakistan, is about 150 lakhs and odd, and in lieu of this holding Dalmia Cement (Bharat) Limited issued shares to the original share holders of Dalmia Cement Limited. Ex. M. 6 is the report of the Directors and statement of account of Dalmia Cement (Bharat) Limited, for the year ended 31st December, 1952. Page 22 refers to Dalmia Cement Limited, and Rs. 1,50,21,377-8-0 is shown to be the amount of shares issued for payments in cash. Ex. M. 6, page 13, contains a list of investments of Dalmia Cement (Bharat) Limited. The total amount of investments in Dalmia Cement Limited is shown to be Rs. 1,51,01,377-8-0. In Orissa Cements the amount invested is Rs. 55,60,000-0-0. As admitted by Mr. Hinduja, a sum of Rs. 206 lakhs

and odd in the balance sheet includes the investment in Dalmia Cement Limited, Pakistan, and Orissa Cement Limited.

19. It is also common ground, that the Dalmia Cement Factory at Dalmiapuram began to work from 1939. Originally, work was commenced with 250 tons dry process plant which is in operation since July 1939. In 1949 a 500 ton wet process plant was added, and this started production in September 1949. According to the evidence of Mr. Roy, the works Manager, M.W. 2, the 250 ton unit has been running from the last 14 or [illegible] years, and the average daily production of the same is 200 tons. The total average daily production in respect of both units is about 750 tons per day, *i.e.*, 550 tons for the new plant and 200 tons for the old plant. He denies the suggestion in cross-examination that the production of the old plant is 250 tons. Ex. M. 47 is a statement of clinker production monthwise during the years 1952, 1953 and 1954 of both units, unit-wise. There is no doubt, that the factory as at present constituted has a production capacity of 750 tons per day.

20. On both sides reference has been made to the award passed between the parties on an earlier occasion and reported in 1951, II, L.L.J., 153, and the judgment of the Labour Appellate Tribunal of India on appeal is reported in 1952, II, L.L.J., 451.

21. *Issue No.* 1 *in I.D. No.* 65 *of* 1953 *and Issue No.* 17 *in I.D. No.* 278 *(Central) of* 1953.—Various demands have been put forward on behalf of the Union and these are resisted by the management.

22. In the first place, I shall deal with the question of basic wages.

23. According to the workers the company is in a very good financial position and is earning very good profits. In spite of the fact that the company has had continuous prosperity right from its inception the workers are not earning a living wage. The wages paid by the management are so low, that they do not come up even to less than half the living wage. The minimum wage that is now being paid is 0-14-0 per day. It is alleged in the statement of demands, that independent investigation has revealed that an amount of Rs. 129-8-0 will have to be paid to a worker in the aggregate by way of basic wage and dearness allowance to reach the living wage standard, that in the present company the basic wage is only Rs. 22-12-0 per month, that the dearness allowance is only Rs. 33-4-0, that the amount of Rs. 56 is less than half the living wages, that the living wage payable to the workers must be a first charge on the industry, and that the Union is prepared to accept at least Rs. 35 as the minimum basic wage, payable to an unskilled worker in the industry on entry.

24. The contention on behalf of the management is, that the Union's demand is unreasonable and cannot be accepted. According to them the cost of coal is of great importance and has considerable influence on the production of cement The Dalmia Cement Factory is situated at a great distance from coal fields and transportation costs add to the cost of production in this factory. Moreover, the Dalmiapuram factory is situated in South India, and is seriously affected by power cut which recurs year after year, and on account of power cut production comes down and costs go up. The company has to face serious competition. The company has been making only low profits on account of these various factors. It is further pleaded, that an important fact connected with the economy of the company, is the liability which it carries for the repayment of debentures of Rs. 1 crore which will come up for redumption in 1960. It is accordingly contended that the financial position of the company is not such as to justify any increase in wage rates.

25. It is also argued, that in considering the question of wages and dearness allowance, the amenities provided by the company should also be taken into account. It is urged, that the demand of the Union for payment of minimum wage of Rs. 35 per month is neither just nor proper, and that the existing wage scales are proper and adequate.

26. On behalf of the workers W.W. 13 Sundaramurthi deposes, that he has to support 5 persons including himself. The prices in Dalmiapuram are very much higher, and vegetables and provisions are more costly there than in Tiruchy. He cannot get on without incurring debt every month. His evidence is that every month he may purchase rice of the quantity of Rs. 35 to 40 Madras measures. He may spend about 3 annas for vegetables per day. He requires a Madras measure of ground-nut oil per month and one Madras measure of gingily oil. Fuel costs amount to Rs. 7-8-0, and purchase of meat accounts for Rs. 5. He purchases about 7½ measures of milk. He spends Rs. 5 for pocket money for himself. He purchases about Rs. 20 to 25 worth of provisions in the provision stores. He spends Rs. 2 on shaving and Rs. 4 for dhoby. This evidence has

been relied upon as being generally illustrative of the ordinary requirements of every worker in respect of food, clothing, etc.

27. It is necessary to mention, that certain agreements were entered into in respect of fixation of wages. Exs. M. 27, M. 29 and W. 10 may be referred to in this connection. In Ex. M. 29, dated 21st February, 1948, it is stated, that minimum wage had been increased from Rs. 12 to Rs. 15 without any reservations. Dearness allowance was to be calculated at 2 annas per point over 100 in the living index. So far as piece-rated workers were concerned, it was agreed, that the existing wages should be deemed to include the existing dearness allowance of Rs. 16. Ex. M. 27, dated 1st August, 1948, set out, that the management had agreed to raise the minimum rate of wages in the factory to Rs. 20 and had prepared a schedule of grades. There is a schedule of grades with the wages pertaining to each grade, attached to Ex. M. 27. Ex. W. 10 is an agreement entered into between the parties on 26th May, 1949 but there is no particular reference to basic wage.

28. It is common ground, that the minimum wages that is now being paid to an unskilled worker is 0-14-0 a day amounting to Rs. 22-12-0 per month of 26 working days without any distinction of sex. It is stated in the statement of demands, that including the dearness allowance of Rs. 33-4-0 an amount of Rs. 56 is being earned. It is argued for the management, that in the previous award reported in 1951-II, L.L.J., 153, it was observed as follows at page 160:—

> "There is evidence to show that the rate of basic wages now obtaining in the company are more favourable than the wages prevailing in other cement factories. In no other cement factory is the Dearness allowance being paid at rates exceeding 2 annas per point of rise in the cost of living index. If the management should be asked to increase the basic wage or dearness allowance, they would be greatly prejudiced. I do not, therefore, see sufficient reason to award an increase in either the basic wages or the dearness allowance over the rates obtaining at present."

29. The argument of Mr. Agarwal is, that in view of the award there can be no question of revision of basic wages. It is urged, that the award is binding on the workers, that section 19(6) of the Industrial Disputes Act operates as a bar to their claim for revision of wages, and that no notice has been given as contemplated therein. There is no doubt, that there was a demand by the workers for revision of basic wages, and there is a reference by Government in respect of the same. In fact in Ex. M. 10, dated 25th July, 1953, it was agreed between the Union and the management that two months' basic wages should be given as bonus for the year 1952, and that all matters of dispute relating to factory and quarry workers will be referred to adjudication under section 10(2) of the Industrial Disputes Act. One of the items of dispute is the question of basic wages. In view of this circumstance, I fail to see how any argument based on section 19(6) can prevail. The previous award does not disentitle the workers from putting forth their present demand for revision of basic wages and dearness allowance. The same remarks also apply to the agreements mentioned above. If there is a change in circumstances justifying revision since the agreements were entered into, then the workers are entitled to advance their demand for revision of basic wages and dearness allowance.

30. The next point is whether the basic wage should be raised from the prevailing rate.

31. Reference may be made to the evidence of W.W. 13 Sundaramurthi who says, that in the neighbourhood of Dalmiapuram, the cooly that is given ranges from Rs. 2 to Rs. 2-8-0 per day. Except his evidence, there is no other satisfactory proof in respect of the same. There are no satisfactory grounds for holding that the minimum basic wage should be Rs. 35 per month. This contention has not been persisted in at the time of arguments by Mr. Ramanujam. Mr. Ramanujam contended, that minimum basic wage should be fixed at Rs. 30 per month for a month of 26 days, or at any rate at not less than Rs. 26 per month, *i.e.*, at the rate of not less than Re. 1 per day.

32. It is urged by Mr. Ramanujam, that in other organised industries such as textiles and engineering, unskilled workers are being paid a rupee per day as minimum wage, that even the A.C.C. Unit at Madhukarai is paying a rupee a day as the minimum for an unskilled worker, and that there can be no justification for the low rate of 0-14-0 per day. It is mentioned in paragraph 12 of the statement of demands, that the Union's claim is not for this one rupee rate only, which is considerably lower than the pre-war living wage. It is stated in paragraph I(14) of the counter, that when the basic minimum wage for an unskilled worker in the textile and engineering trades as also the cement industry

is the same and does not exceed Re. 1 per day the question of allowing any increased rate in this company, in any case does not arise. Mr. Roy in his evidence states, that the minimum basic wage in Madhukarai is Re. 1 per day. He does not know the basic rate of wages in other industries. His further evidence is that round about Dalmiapuram unskilled labour not engaged in any industry is paid at the rate of annas 12 a day per head, and there is no dearness allowance paid in addition to the wage. Ex. W. 7 has been produced as a comparative statement showing the wages paid in (1) Dalmia Cement (Bharat), (2) A.C.C., Madhukarai and (3) India Cements, Thalaiyuthu. It seems to me, that the demand for payment of Rs. 30 cannot be sustained in view of the above evidence, and especially when in textile and engineering sections and in Madhukarai cement factory the minimum rate does not exceed one rupee per day. In the counter there is a statement in continuation of paragraph 'X' showing the average dividends paid by various industries during a number of years past. Mr. Agarwal argues, that the correctness of the same cannot be disputed, that the figures have been compiled from the Reserve Bank of India Bulletin, October 1948, and that a perusal of the figures will show that the Dalmia cement factory has not paid at any time more than 7·5 per cent. dividend whereas textile and engineering concerns have paid much more. I find that the demand of the workers for payment of Rs. 30 per month cannot be sustained.

33. The principles that ought to be borne in mind in fixing the minimum rate of wages are laid down in the Buckingham and Carnatic Mills Ltd., and their workers, 1951-II, L.L.J., 314. An extract from the observations of the Labour Appellate Tribunal is quoted in paragraph I(17) of the Counter. As observed therein, the wages of an industrial worker must be such as would enable him to have not merely the means for bare subsistence of life, but also for the preservation of his efficiency as a worker. For this purpose he must have means to provide for some measure of education, medical requirements, and amenities. This is the minimum which he must have irrespective of the capacity of the industry or of his employer to pay. The upper limit of the wages must be set by what may be called the capacity of the industry to pay, not of a particular unit thereof, but on the industry-*cum*-regional basis. It is also pertinent in this connection to refer to the decision in "Phaltan, etc., Sugar Mills, Bombay State and their workmen", 1954-II, L.L.J., 341. At page 343 are set out the observations from the Bombay Textiles Labour Enquiry Committee Report. It is observed that a concept of the living wage standard has no special connection with the textile industry and it is a general concept which can be applied to persons in any walk of life. When the minimum wage is one rupee in the textile industry, and when in the A.C.C. at Madhukarai the same minimum wage prevails, I do not see any sufficient reason for holding that the minimum wage should remain at 0-14-0 per day only in the instant case as argued by the management. It is reasonableness to fix rupee one per day irrespective of sex.

34. However a number of contentions have been put forward on behalf of the management against the acceptance of the rate as mentioned above. It is pointed out, that in the various agreements entered into with the workers themselves, the minimum wage was never adopted to be one rupee per day. The fact that the existing rate of wages is being paid in pursuance of agreement between the parties is no bar to the demand for increase in wages if the demand is justified on merits. The agreements cannot be taken to establish a kind of estoppel against the workers. The workers are entitled to ameliorate their conditions if circumstances justify the same.

35. The next argument is, that the financial condition of the company is not such as to justify the payment of one rupee per day as the minimum basic wage. It is contended that the Dalmia Cement (Bharat) has to provide for redemption of debentures amounting to about 1 crore of rupees by 1960. It is also urged, that the Dalmia Cement (Bharat) cannot stand comparison with Messrs. Associated Cement Companies Ltd., and that the latter is a very big concern producing over 57 per cent. of the total cement produced in the country. Exs. M. 7 and M. 8 are the audited balance sheets of the Associated Cement Companies for 1951-52 and 1952-53 respectively. There can be no doubt, that the A.C.C. have vast resources and that their financial position is infinitely better than the Dalmia's. Exs. M. 7 and M. 8 reveal that the profits in 1951-52 and 1952-53 amounted to a little over a crore of rupees. Ex. W. 7(a) shows that in Dalmia Cements for the year 1951-52 the profits amounted to about Rs. 24,00,000. Ex. M. 6 for 1952 shows that the Dalmia Cement (Bharat) earned profit of about Rs. 25,83,000. On behalf of workers reliance is placed upon Ex. W. 12, a report in the Indian Express, dated 8th September, 1954, wherein it is stated, that the Directors of Dalmia Cements reported satisfactory results for the year ended December 1953. In Ex. M. 6 it is remarked, that in consistence with the extent and period of power cut, the working of the factory had been satisfactory, though the working of the Shahtinagar works at Karachi had not been satisfactory.

I am not satisfied, that the present company is without resources, or that its financial position is such, as to justify the rejection of the contention, that the minimum basic wage should be in any case one rupee per day.

36. The next argument is, that the problem of coal supply is very acute, and considering the high cost of coal the demand of the worker cannot be met. It is alleged, that coal has considerable influence on cost of production of cement. In paragraph L of the counter are set out remarks contained at page 81 of "The Wealth of India—A Dictionary of industrial products". It is urged by Mr. Agarwal that the Dalmiapuram factory is situated at a great distance from the coal fields in Bengal and Bihar, that high transportation costs have to be paid, that this adds to the manufacturing costs, that in these circumstances also the demand for increased wages is not justified. By contrast, it is urged, that A.C.C. have got their own coal fields and are in a much better position so far as supply of coal is concerned. That the A.C.C. own coal fields of their own, is clear from the reports Exs. M. 7 and M. 8. Even assuming that coal has to be got for the Dalmiapuram Factory from long distances, this cannot be taken as a factor justifying the rejection of the demand for increased wages. The above fact has not prevented the making of substantial profits during the various years of operations.

37. It is next urged, that power cut has been practically chronic, in view of the drought conditions prevailing in South India, that the entire plant was not worked to capacity for some months, and that the production was cut down to 625 tons per day, and that this added naturally to the cost of production. It is also pointed out, that Diesel sets at a cost of 6 lakhs had to be installed to supplement the power supply, and that this has resulted in increase in cost of production of cement on account of increased cost of generation of electricity. This circumstance refers only to a temporary phase and does not justify the contention on behalf of the management. There is no power cut since July 1953. The power cut was universal in its application and is not peculiar to this factory alone.

38. Another factor urged is, that the price of cement in former years was Rs. 97 per ton, which was a favourable price, and that the same has been reduced to Rs. 82-9-0 effective from 1st October, 1953. Attention is also drawn to Ex. M. 11 an order passed by the Government of India fixing the price of cement as from 8th February, 1954, and it is urged, that the price has been still further reduced. The argument is put forward, that the selling price of cement is low, that whereas other articles of Indian manufacture have registered 162 to 400 per cent. price increase, so far as cement is concerned the increase is only 74 per cent., as compared with pre-war prices. It is also argued, that on account of keen competition in South India and lack of demand, substantial concessions have to be shown to stockists and consumers. Attention is also drawn to the evidence of Mr. Roy, that on account of the recent order of Government in Ex. M. 11, an amount of Rs. 2 per ton is being set apart for rehabilitation, but without any increase in price. The various arguments put forth above cannot be accepted as proving that the acceptance of a basic wage of one rupee per day is unreasonable or if conceded would have disastrous results on the industry. The various features as appearing in the arguments of Mr. Agarwal are common to the various units engaged in cement production, and are not peculiar to this particular company.

39. Nextly, it is stated, that apart from the cement factory at Dalmiapuram, the company has set up a few small industries for the manufacture of R.C.C. Pipes, Stoneware Pipes, earthen jars, insulators, refractories, etc., that about 300 men are employed in these industries, that they are also being paid the same minimum wage as the cement factory workers even though in other respective industries the labourers are paid far less as basic wage, and that in these circumstances also there can be no increase in the minimum wage. Ex. M. 49 is a comparative statement showing on one hand the wages paid by Dalmia Cement (Bharat) to its workers in potteries, stoneware pipes, refractory, etc., sections and the wages paid by other concerns of South India to workers engaged in similar industries. The factories at Gudur, Ranipet, Trivellore, Badravathi, Alwaye, Bangalore, and Kundara, are taken into account. Mr. Agarwal points out, that in the Gudur Factory, the minimum is 6 annas whereas the maximum is 10 annas payable to an unskilled worker, and that the minimum in Badravathi and Bangalore is about the same. It is, however, pertinent to note, that in Ranipet and Trivellore the basic wage ranges between 12 annas and one rupee. The decision in Stoneware Pipes, Madras and their Workmen, 1954-I, L.L.J., 240, is the award in respect of the Trivellore Ceramic Factory where the minimum basic wage of 15 annas going upto Rs. 1-5-0 was fixed and annual increment of 0-0-6 was ordered. It is not relevant to take into account Government Institutions which are non-profit making concerns. The further argument is, that

so far as these small scale industries are concerned, there were losses sustained as shown by Exs. M. 12, M. 13 and M. 14, that in order to meet increased competition, the Dalmiapuram factory had to reduce the comparative selling rates of products in the side industries, and that in these circumstances also there can be no increase in minimum wages. I am not prepared to accept this argument. After all, as I will presently show, these side industries are also part of the Dalmia Cement (Bharat) Limited, and cannot be regarded as separate and independent concerns. Even if there was any loss in these side industries as they are called by the management, they have been more than off-set by the working of the factory as a whole which has resulted in a profit of about Rs. 25,00,000 in 1952 and 1953 as can be gathered from Exs. M. 6 and W. 12.

40. Nextly, it is contended, that there are various grades in the factory, that it is possible for workers to go from grade to grade, that annual increments are being granted, that grades were introduced in the A.C.C. at Madhukarai only recently, and that when there are better facilities for workers, there is no justification for increasing the minimum wage. Ex. M. 27 shows the grades that are existing. The evidence of Mr. Roy is, that before the agreement Ex. M. 27 there were no grades, and that these were later revised. Ex. M. 28 is a comparative list of grades as between Dalmiapuram and Madhukarai. In Madhukarai the grades are said to have been introduced on 1st August, 1953 only. Even assuming the existence of grades that fact cannot have any material bearing on the question of fixation of minimum basic wages. The minimum basic wage has to be fixed in accordance with the principles laid down in the decision in the Buckingham and Carnatic Mills referred to above.

41. The next argument is, that a number of amenities are being provided by the management and that in this view also the demand for increased wage is unjustified. Housing is provided to some of the workers, and house rent allowance is not charged at more than the house rent allowance which is paid to them, unless the worker occupies a better house than the house allowed by his earnings. A school is run with classes upto S.S.B.C. and it is recognised by Government. Free Cinema shows are being given to workers. There is a regular hospital with a Medical Officer in charge. Free milk is being supplied to children in the creche below three years. There is a dairy farm from which milk is supplied to the colony. Vegetables are grown in the sewage farm and they are sold in the colony. There is a provision store where provisions are sold for the benefit of the workers. Exs. W. 23 to W. 26 are the lists showing the prices at which articles are sold. Emphasis is laid on the fact, that the sales are increasing, and that the stores are very popular with the workers. It is also an admitted fact, that electricity and water are supplied free. The contention of Mr. Agarwal is, that when these various amenities are being provided to the workers, there is no justification in the demand for raising the minimum wage to one rupee. In the statement of amenities provided, attached to the counter, the value thereof per worker per month, is shown to be Rs. 7-12-6. It is urged, that in the decisions in 1951-II, L.L.J., 705, Harrisons and Crosfield Limited, Quilon and certain workmen, and 1952-II, L.L.J., 615, Sri Dig Vijay Cement Company Limited, Sikka and their Workmen, the value of the amenities was taken into account in fixing minimum wages. It is also urged, that in the Buckingham and Carnatic Mills Case referred to above the minimum wage was fixed at Rs. 27-11-9 and this included, the value of house rent, fuel and light. The fact that various amenities are being provided to the workers, makes no difference to the conclusion that the minimum basic wage cannot be less than Re. 1 per day. In the Textile Industry the minimum has been fixed at Rs. 26. There is no reason to come to a different conclusion so far as the present company is concerned. Moreover, the evidence of Mr. Roy is that piece-rated workers earn about Rs. 60 a month. It is necessary to fix the basic wages at Rs. 26 a month to enable the above wage to be earned. The value of the amenities provided will have a material bearing on the rate at which dearness allowance can be granted to the workers. The decisions in 1952-I, L.L.J., 822, Metal Box Company of India Limited, and their workmen, and 1951-II, L.L.J., 31, the Army and Navy Stores Limited, Bombay and their workmen, have also been referred to on behalf of the management. I quite agree, that the decision as to the rate of wages must not be based on haphazard considerations, and that it must be arrived at on a comparison of wage scales. Bearing in mind the principles laid down in the decisions referred to above and considering the circumstances of the case, I am of opinion, that the minimum basic wage for an unskilled worker regardless of sex should be not less than one rupee per day or, Rs. 26 a month of 26 working days.

42. The next contention of Mr. Ramanujam is, that the benefit of the basic wage from Rs. 22-12-0 per month at the rate of As. 14 a day to Rs. 26 at the rate of Re. 1 a day for 26 working days, must also be given to all other workers in the factory, and that it should not be confined to the unskilled workers alone.

In other words, it is urged, that the difference of Rs. 3-4-0 should be added to the salary of every other worker in the factory including skilled and semi-skilled. I see no sufficient reason for upholding this contention. We are now dealing with a question of minimum wage and there is no warrant for adding an amount of Rs. 3-4-0 to the salary of every other worker. This demand cannot be accepted.

43. In this connection, it has been pointed out on either side, that a Tripartite Enquiry Committee has been constituted for the Cement industry, and that it is examining and enquiring into the existing terms and conditions of employment for the workers. Ex. M. 3 contains the terms of reference to the committee. Ex. M. 4 contains copies of the resolution passed by the Committee. Ex. M. 3 shows, that the terms of reference include wage structure and dearness allowance. It is open to the workers on the one hand, and the management on the other, to accept wage scales and dearness allowance recommended by the Committee.

44. On a consideration of all circumstances existing at present and the evidence on either side, I am led to conclude that it is fair and reasonable to fix the minimum basic wage at Re. 1 per day. I find on these issues, that the minimum basic wage that shall be paid to any worker irrespective of sex shall be Re. 1 per day or Rs. 26 a month of 26 working days.

45. *Issue No. 7 in I.D. No. 65 of 1953 and 23 in I.D. No. 278(C) of 1953.*— The next question is about the rate at which dearness allowance should be fixed. In the statement of demands, it is alleged, that the present dearness allowance is only Rs. 33-4-0 which is arrived at on calculation at the rate of As. 2 per point over 100 of the Tiruchi cost of living index number that this is an extremely low rate of neutralisation, and that the rates should be increased to As. 4 per point over 100.

46. In the course of arguments Mr. Ramanujam has stated, that the Union will be content with 3 annas per point over 100 in the Madras cost of living index. This demand is resisted on behalf of the management.

47. Once again the previous award of 1951, 1951-II, L.L.J., 153, has been put forward as a bar to the demand. This contention must be rejected as already remarked and there is no bar of section 19(6) of the Industrial Disputes Act.

48. However, apart from this, I am of opinion, that there is no case made out for increase in the rate of dearness allowance. It is important to note, that the evidence establishes that in the Madukarai factory the dearness allowance that is being paid is only As. 2 per point over the cost of living index at Coimbatore. In Thalayuthu it is paid at the rate of As. 2 over the cost of living index as at Tirunelveli. When the A.C.C., which is a substantially big organisation and is in a very much better position than Dalmia Branch Limited, and is situate in a place about 7 miles from Coimbatore which is a very costly place as observed in Cinema Talkies *vs.* Their Workmen, 1952-I, L.L.J., 649, is paying only annas 2 per point, I fail to see how there is any justification for the demand for payment of a higher rate in Dalmiapuram Factory. The cement industry in this region is paying only at As. 2 per point, and it is legitimate to take this into account in fixing the rate of dearness allowance. In Sri Dig Vijaya Cement Company Limited, Sikka and Their Workmen, 1952-II, L.L.J., 615, which related to the cement industry in the western part of the country, it was found that an amount of Rs. 52 including dearness allowance was considered a fair minimum wage. It was held, that in considering the total emoluments, the value of amenities like free quarters, water and light will also have to be considered. When the basic wage has been fixed at Rs. 26 the workers are enabled to earn at the rate of Rs. 60 including Rs. 33-4-0 the amount of dearness allowance now being given. Mr. Roy's evidence shows, that even piece-rated workers earn about Rs. 60. It is well settled, that payment of dearness allowance, also depends upon the capacity to pay and the financial position of the company. On the facts of the present case, I am of opinion, that any addition to the prevailing rate of dearness allowance will adversely affect production with its repercussions on the continuity of employment of labour. Moreover, the contention on behalf of the workers that the rise in the cost of living should be neutralised to the extent of 90 to 95 per cent. cannot be sustained, when it is clear from the authorities that the workers as citizens of the country, must bear their legitimate share of the increase in the cost of living. In Calcutta Tramways *Vs.* Their Workmen, 1953-I, L.L.J., 81, it was held, that full neutralisation ought not to be allowed. It has not been proved, that in any other regional unit manufacturing cement, dearness allowance is paid at more than As. 2 per point over the cost of living index. It is also important to note, that Dalmiapuram is about 30 miles from Tiruchi. The evidence of some of the workers and especially of W.W. 13 Sundaramurthi that prices in Dalmiapuram are higher than those in Tiruchi cannot be accepted. Mr. Ramanujam has drawn attention to Stoneware Pipes,

Madras and their workmen, 1954-I, L.L.J., 240. That decision related to the ceramic industry at Trivellore and for an unskilled worker wages of As. 15 and Rs. 1-5-0 dearness allowance were fixed. The total emoluments come to about Rs. 59 and this is not higher than the emoluments in the present company with basic wage at Rs. 26 per month. I find, that there is no case made out for increase in the rate of dearness allowance that is being paid at present.

49. The argument was advanced by Mr. G. Ramanujam that the dearness allowance must be linked to the cost of living index pertaining to Madras. It is pointed out on behalf of the management, that the cost of living index is higher at Tiruchi as compared to Madras, and that the workers will be in a less advantageous position, and that there is no justification for any change in the existing practice. I find, that the demand for any increase in the rate of dearness allowance is not justified, and that the management shall continue to pay the same according to the rate now prevailing and existing practice of linking it to the cost of living index at Tiruchirapalli.

50. *Issues Nos. 2 to 5 in I.D. No. 65 of 1953 and Issue No. 19 in I.D. No. 278 (Central) of 1953.*—Issues 2 and 3 relate to the demand for upward revision of the existing system of grades. Issues 4 and 5 relate to demand No. 3, and the case of the workers is, that graded annual increase or time-scale of wages should be fixed for each category of workers, and that service weightage should be given for past service at the time of fitting into the new time scale of wages. Mr. Ramanujam has stated that these matters are being dealt with by the Tripartite Committee and that these issues may be left open, *vide* memo. filed on behalf of the Union, Ex. W. 13. The above mentioned issues are left open and no decision is given thereon.

51. *Issues Nos. 6, 9 and 10 in I D. No. 65 of 1953 and Issue No. 24 in I.D. No. 278 (Central) of 1953.*—These issues relate to the demand for payment of bonus for the year 1952. It is well settled that the onus is on the workers to make out a case for bonus; Textile Workers' Union, Lucknow *Vs.* Sri Vikram Cotton Mills, 1953-II L.L.J., 858.

52. The agreement, Ex. M. 10, was arrived at on 26th July, 1953, and it shows, that bonus equivalent to two months' basic wages proportionate to the earnings of the employees was agreed to be paid. Other matters in dispute were referred to adjudication.

53. The contention on behalf of the workers is, that in the year 1952 substantial profits were earned by the company, and that at least 4 months basic wages should be paid as bonus for 1952, less the two months interim bonus paid. The contention on behalf of the management is, that the bonus that has been already paid is adequate and that there is no case for any additional bonus It is urged, that in view of the financial position of the company and the future prospects of the Cement industry there is no possibility of giving any more bonus.

54. On behalf of the management Ex. M. 56 has been produced as the bonus calculation statement and it is sought to be proved, that there is no available surplus, and that on the contrary there is a minus balance of about 4 lakhs. On behalf of the workers Ex. W. 11 is produced, and it is pointed out that even after payment of 4 months basic wage as fixed, there is still surplus of more than about 5½ lakhs.

55. On behalf of the management the statement Ex. M. 52 has been filed as showing the value of the fixed assets as on 31st December, 1952. Ex. M. 58 is a statement of the gross block of the old plant as at the end of each year from 31st December, 1936 to 31st December, 1951. Ex. M. 60 contains list of additions.

56. In the first place, there can be no dispute that the net profit as per the profit and loss account Ex. M. 6 is Rs. 25,83,154.

57. Secondly, the amount of depreciation to be added is Rs. 11,31,311.

58. Thirdly, an amount of Rs. 11,643 is shown as the amount spent on charities and donations. This must be added back in accordance with the principle laid down in the Meenakshi Mills Ltd., Madurai and Manaparai and their workmen, 1953-II, L.L.J., 520.

59. Fourthly, in the statement filed on 31st July, 1954, Ex. W. 8, an amount of Rs. 5,50,000 is mentioned as the amount to be added back to the profits towards the bonus paid in previous years 1949, 1950 and 1951. The contention on behalf of the management is, that only an amount of Rs. 36,566 was paid towards bonus of 1949, 1950 and 1951 during 1952. The contention on behalf of the workers cannot be sustained in fact of Ex. M. 57 which is certified by the auditors. This

shows that an amount of only Rs. 36,556 is the amount adjusted in respect of bonus for 1949-50 and 1950-51 incorporated in the profit and loss account for year 1951. There are no reasons for departing from Ex. M. 57 I find, that only an amount of Rs. 36,556 should be added back to the profits.

60. Fifthly, the question is whether an amount of Rs. 6,25,000 towards interest should be added back to profits. In the statement of account Ex. M. 6 at page 18, an amount of Rs. 7,00,699-1-11 is shown to be the interest that was paid on borrowings by the company. The contention of Mr. Ramanujam is that this must not be allowed and that this should be added back to the profits. It is argued, that more than Rs. 2 crores is invested in Dalmia Cement Limited, Pakistan, and in Orissa Cements, and that there is no disclosure of the return on investments in the balance sheet I have already referred to the fact, that about Rs. 1,51,01,377-8-0 is invested in Dalmia Cements, Pakistan, and Rs. 55,60,000 in Orissa Cements. There is no return on investment shown in the statement filed on behalf of the management. It is, however, argued by Mr. Agarwal that pages 44 and 45 of Ex. M. 6, will show, that Orissa Cements sustained a loss of Rs. 38,93,190, Mr. Ramanujam points out, that this is only ficticious, and that this is due to the huge figure of Rs. 63,87,124 shown towards initial depreciation in page 44. It is argued by Mr. Ramanujam, that allowing a return of 6 per cent. on about 2 crores, the return will be 12 lakhs, *i.e.*, 5 lakhs more than the interest on borrowing. Mr. Agarwal has been obliged to concede that the amount of Rs. 6,25,000 may be added back to the profits. Mr. Ramanujam also accepts the amount of Rs. 6,25,000 as the amount to be added back, in the statement in Ex. W. 11. This means that no interest on borrowings is debited and no return on investments in credited. I find that the amount of Rs. 6,25,000 should be added back to profits.

61. The next question is with reference to the amounts to be deducted from the total amounts arrived at as above. First and foremost is the provision for rehabilitation which is a first charge on the profits. In Ex. M. 56 an amount of Rs. 6,87,507 is shown to be the amount necessary for rehabilitation, and in Ex. W. 11 the amount of Rs. 12,807 is mentioned as the amount necessary for rehabilitation in 1952.

62. Both parties have taken the gross value of the block at Rs. 27,76,193 as on 31st December, 1946 and this is also the amount as shown in Ex. M. 56 filed on behalf of the management. Mr. Agarwal has argued, that the estimate of rehabilitation should be as in Ex. M. 53. It is urged, that an amount of Rs. 6,87,507 (as shown in Ex. M. 56) is necessary for rehabilitation considering that the life of the plant cannot be estimated to be more than 10 years. Even if the estimated life is taken to be 15 years an amount of Rs. 4,31,200 is required. The calculation as shown in Ex. M. 53 is based upon the Tariff Commission Report, Ex. M. 55. Attention is drawn to pages 32 and 33 of Ex. M. 55. At page 33 the following observation occurs:—

> "We understand that at the present levels of machinery prices and construction costs, the capital investment required for a new unit (including a power plant) is estimated at about Rs. 120 per ton."

At page 30 it is observed, that the manufacutre of cement is a continuous process involving heavy strain to the plant, machinery and equipment, and that careful attention is needed to ensure that replacement and rehabilitation are undertaken in proper time. There is reference to the 10 year programme for rehabilitation by A.C.C. It is argued by Mr. Agarwal that for purposes of rehabilitation the replacement cost should be calculated at the rate of Rs. 120 per ton of the quantity produced. The total production is estimated to be 82,500 tons at the rate of 250 tons per day for 330 working days. The amount of Rs. 99,00,000 is shown as the replacement cost calculated at the rate of Rs. 120 per ton of production. Taking 5 per cent. break-down value an amount of Rs. 97,41,562 is said to be required for rehabilitation in Ex. M. 53.

63. The contention on behalf of Mr. Ramanujam is, that the argument based upon the recommendations of the Tariff Board cannot apply and that we are governed by the decision of the Labour Appellate Tribunal laid down in the Mill Owner's Association, Bombay (*v*) Rashtirya Mill Mazdoor Sangh, Bombay, 1950, II-L.L.J., 1247. It is true that the said formula related only to the textile industries. It appears to me that it is fair and reasonable to follow the said formula in arriving at the available surplus for payment of bonus in respect of other industries also.

64. It is argued by Mr. Agarwal that in all the three cases *viz.*, the Minakshi Mills case 1953-II-L.L.J., 520, in the Tiruchy Mill and their workers, 1952-II-L.L.J., 608, and in the Vikram Cotton Mills case 1953-II-L.L.J., 858 the whole block was taken into account without making any distinction between the machinery

and buildings. In the Meenakshi Mills case the block was valued as it stood on 31st March, 1947, and in the Vikram Cotton Mills case it stood on 1st December, 1950. Following the Full Bench decision and taking the value of the block as at 31st December, 1946, as Rs. 27,76,193 which is the figure accepted by either side in their statements Ex.M.54 and W.11, it should be multiplied by 2.7. The result is Rs. 74,95,721.

65. In Ex.M.54, the addition to the block between 31st December, 1946, and 31st December, 1951, is shown to be Rs. 3,92,581. Mr. Ramanujam however ignores this addition. His contention is that in Ex.M.52 the amount of Rs. 31,68,774-10-2 is shown as the value of the gross block as on 30th December, 1951, that deducting the amount of Rs. 27,76,193-10-5 we get Rs. 3,92,581, that this represents the rehabilitation already made, and that there is no need to take this into account. I am unable to agree. The additions to the old plant have also to be taken into account. The details of additions to the old plants are shown in Ex.M.60. I find that the amount of Rs. 3,92,581 should be added to the value arrived at as above.

66. On behalf of the management Mr. Agarwal has however, multiplied Rs. 3,92,581 by 1.5 and has taken the product of Rs. 5,88,871/- as the amount to be added. I am unable to accept this contention. There is no justification for multiplication of the amount of Rs. 3,92,581/- by 1.5, and no decision has been referred to before me as justifying this procedure. Thus the value of the block to be taken into account for purposes of rehabilitation is Rs. 74,95,721/- plus Rs. 3,92,581/- *i.e.*, Rs. 78,88,302/-.

67. According to the decision 5% breakdown value must be deducted in case of machinery. The value of the plant and machinery as appearing from Ex.M.58 is Rs. 18,01,175-5-1. The break-down value at 5% is Rs. 90,058/-. Deducting this from the total mentioned above the balance required for rehabilitation is Rs. 77,98,244/-.

68. Nextly Mr. Ramanujam contends, that the amount of Rs. 20,98,456/- must be deducted as the amount of depreciation provided for and that this is the amount as provided in Ex.M 53. Mr. Agarwal contends, that this is the figure if initial depreciation also is included, that in the award Dalmia Cements Limited and their workmen, 1951-II-L.L.J., 153, the initial depreciation was not taken into account and was disallowed on the objection of the Union, and that this amount cannot be taken into account. In view of the previous decision, Rs. 20,98,456 cannot be taken into account and this cannot be deducted from the amount necessary for rehabilitation.

69. Nextly there is the amount of Rs. 18,00,000/- set apart towards general reserve and Rs. 16,52,329-8-0 towards capital Reserve. The total amount is Rs. 34,52,329/-8/0. The said figures are shown at page 10 of Ex.M.6. The contention of Mr. Agarwal is that these figures should not be taken into account; and that they have been locked up and do not represents liquid assets. The above contention on behalf of the management cannot be accepted, and the reserves have to be taken into account in arriving at the amount required for rehabilitation. Thus the total amount of Rs. 34,52,329-8-0 must be deducted from the amount of Rs. 77,98,244/- *i.e.*, The balance is Rs. 43,45,915/-.

70. The contention on behalf of the management is, that for purposes of rehabilitation 10 years must be taken to be the life of the machinery and that the above figure must be divided by 10. There is no substance in this contention and following the full Bench decision referred to, the figure must be taken to be 15 years. Dividing the above by 15, the amount necessary for rehabilitation for 1952 is Rs. 2,88,995/-.

71. From this should be deducted 81.429/- the amount already adjusted in 1952. The balance is Rs. 2,07,566/-.

72. The next item to be deducted from the total gross profits is the amount necessary for taxation. An amount of Rs. 13,45,904/- is shown in Ex.M.56 towards taxation. I accept the same.

73. Nextly, the management is entitled to 6% return on capital and the amount of Rs. 9,01,324/- must be deducted.

74. Nextly, return on reserves must be allowed at 4% and this amounts to Rs. 1,48,920/- as shown in Ex.M.56 and accepted on behalf of the workers.

75. On the findings arrived at above the result is as follows:—

		Rs.
Profit as per Profit and Loss account		25,83,154
ADD: Depreciation		11,31,311
Charities and Donations		11,643
Bonus paid for 1949, 1950 and 1951 during 1952 ..		36,556
Interest debited in Profit and Loss Account ..		6,25,000
		43,87,664
Deductions :		
Less Depreciation . ..		11,31,311
		32,56,353
Less Taxation		13,45,904
		19,10,449
Less return on Capital at 6% .. .		9,01,324
		10,09,125
Less return on reserves at 4% . ..		1,48,920
		8,60,205
Less Provision for Rehabilitation rounded off for 1952		2,10,000
		6,50,205
Less Bonus at 3 months basic wages		2,70,000
	Surplus ..	3,80,205

76. Considering the figures that have been arrived at as above, there is no doubt, that it is reasonable to award the workers 3 months basic wage as bonus. An amount of Rs. 90,000/- per month is said to be the average basic wage in 1952 for the entire factory including the side industries. Even after payment of three months basic wages as bonus, there is a surplus of over Rs. 3,00,000/- The workers have discharged the burden of proving that they are entitled to receive at least 3 months basic wages as bonus for the year 1952.

77. The contention, however, on behalf of the workers is, that there is enough available surplus even to justify the grant of four months basic wages as bonus. As against this must, however, be set forth the fact that the management must be at liberty to plough back a portion of the profits into the industry. This ensures expansion of business and more employment. There is need to provide for modernisation of machinery. All the available surplus cannot be frittered away on bonus. There is also need to have sufficient incentive for capital investment. Moreover, the evidence of Mr. Roy, is, that as per order of Government they have to deposit at the rate of Rs. 2/- per ton in a Scheduled Bank. Further it is argued, that the A.C.C.Company at Madukarai paid only three months bonus in spite of huge resources for 1952 as can be gathered from their balance sheet. Taking all circumstances into consideration, I am of opinion, that the circumstances of the case do not warrant payment of bonus of more than 3 months basic wage.

78. Nextly, I shall deal with the contention that has been put forward on behalf of the management, that the workers engaged in the so-called side industries, *viz.*, Refractories, Cement Pipes, Potteries etc., are not entitled to receive any bonus. It is argued, that the profits in the cement factory are unrelated to any efforts put forth by the workers in these industries, that the said industries resulted in a loss, that they are separate and independent concerns, and that in the above circumstances, the workers engaged in the side industries, are not entitled to participate in the payment of bonus. In Ex.M.48 these are referred to as small scale industries. Reliance is placed by the management on the decision in 1951, I-L.L.J., 463 (Rohit Mills Limited, Ahmadabad and Sri R. S. Karnar

and others) and 1951, II-L.L.J., 765, Ahmadabad Mfg. and Calico Ptg. Company Limited, and their workmen. It is argued, that so far as the first case is concerned, the Rohit Mills machine manufacturing company works was held to be not part of the Rohit Mills, and that in the second case, the chemical factory was held to be non-part of the Textile Unit. The above decisions are distinguishable on the facts of this case, and the contention of the management cannot be sustained. Though in Exs.M.12, 13, 14 losses are shown, the evidence of Mr. Roy is, that the results shown in Exs.M.12, M.13 and M.14 are incorporated in Ex.M.6. This means that for the purpose of ascertaining the profit and lass, there is only one concern, and all the earnings are pooled together. There is only one single control and direction of the entire plant. It is also clear from the evidence, that the workers are transferred from these industries, to the factory, and *vice versa*. Ex.W.1 to W.5 are the orders of transfer bearing out this contention. The evidence of W.W.10 P. J. Anthoni is, that there are transfers from the pottery section to the Cement section and *vice versa*. The pottery section is a part of the industry. W.W.12 M. Govindan was originally working in the kiln, but from two months prior to his deposing in Court he was working in the Pottery Section. W.W.14. S. Narayanan was transferred from the Refractory to Cement Section. He proves Ex.W.1 and W.2 and he swears, that without cement the refractory cannot go on. W.W.16 M. Chinnaiyan is working in the stoneware pipe section. He was transferred to Refractory in 1952 and he speaks to Ex.W.3. W.W.17 Chinnappan states, that he was working in Spun Pipe Section from nine months and it is usual to transfer workers from one section to another section. This evidence proves, that there is but one unit with different sections, inclusive of the cement pipe, spun pipe, refractory, pottery etc., sections, and that the workers are being changed from one section to another. Moreover, there is no separate Articles or Memoranda of Association for the so-called side industries and there is no separate registration under the Companies Act. It can hardly be contended that the so-called side industries are separate legal entities which can act independently, or which can contract liabilities on their own. Moreover, so far as the refractories are concerned they are manufacturing fire bricks which are used for furnace in the cement factory. In Ex.M.6, it is mentioned, that during the last war, the manufacture of refractories was undertaken as the fire bricks supply from Bihar and Bengal became very acute and that the capacity was increased to meet local needs in South India. For cement pipe the raw material is cement. It may be that in the pottery section the raw materials are clay, quartz, felspar etc. All these side industries are part of one manufacturing unit and I am of opinion, that they are not independent of the cement factory, and that on the contrary, they are but different sections of the cement factory. It is also important to note, that the evidence of the witnesses proves that the workers in these side industries have participated in the payment of bonus in the same way as the cement factory workers in the past. Under the agreement Ex.M.10, there is no exception made in respect of the employees of the so-called side industries. On the contrary, all the employees without any exception were agreed to be paid, two months bonus. I find, that the workers engaged in the so-called side industries, are equally entitled to participate in the payment of bonus, and that they too are entitled to be paid three months bonus in all for the year 1952.

79. The management have already paid two months bonus. The workers are entiteld to be paid additional bonus of one month's basic wage.

80. My finding on these issues is, that additional bonus for the year 1952, equivalent to one month's basic wages, proportionate to the earnings of the employees, of all sections in the factory including those in the side industries, shall be paid by the management of Dalmia Cement (Bharat) Limited, to the said employees.

81. *Issue No. 8 in I.D. No. 65 of 1953 and 25 in I.D. No. 278 (Central) of 1953.*— This issue relates to demand No. 5, and raises the question of payment of night allowance. The contention on behalf of the workers is, that work during nights is arduous, that they are obliged to work during unnatural hours, that the third shift is called the "grave yard" shift, and that therefore the night workers should be paid night allowance at 25% of basic wages and dearness allowance, for the work done during nights. The contention on behalf of the management is, that there is no justification for the demand for night allowance.

82. It is common ground, that the shifts are as follows:—

Shift 'A' from 2 A.M. and ends at 10 A.M.

Shift 'B' from 10 A.M. and ends at 6 P.M.

Shft 'C' from 6 P.M. and ends at 2 A.M.

83. There is no doubt, that cement manufacture is a continuous process and that night work is indispensable. The contention on behalf of the management is, that nobody works in the same shift for more than two days, and that in the particular method of working in the company, there is practically little or no discomfort or difficulty to the workers who work in the night shifts which is only partly during the night hours. It is pointed out that workers in shift 'C' have sufficieent time for sleep and rest after 2 A.M. and that likewise in shift 'A' the workers have sufficient time and rest upto 2 A.M.

84. In the statement of demands, it is mentioned, that in the A.C.C. Limited Madukarai, night allowance is being paid at 25% of the basic wages and dearness allowance for work done after midnight. We have the evidence of Mr. Roy, that the shifts are as above, and that the rotation of workers as between the shifts is once in two days. He, however, deposes ,that in Madukarai night allowance is paid to workers who work after mid-night *i.e.*, 25% more of the basic pay earned on those days. In Dalmiapuras no night allowance is given. The management contends, that in the A.C.C. Unit at Madukarai the shift is from 12 midnight to 8 A.M. and that it is on account of this, that night allowance is paid. It is also urged, that no night allowance is paid in Thalayuthu. Relianced is placed upon the decision in 1954-I,L.L.J., 656, Asbestos Cement Limited, and Their Workmen, and it is argued, that therein it was held that no night allowance is payable when the industry is of such a nature that continuous working is essential. For workers reliance is placed upon Tiruchi Mills case (1952-II, L.L.J., 608) wherein night allowance was agreed to be paid. This was distinguished in the Asbestos Cement Case.

85. There is no doubt of the fact, that workers in the 'C' shift work only from 6 P.M. to 2 A.M. It cannot be held, that work from 6 to 10 P.M. is during unnatural hours. At best it can be held, that the work from 10 P.M. to 2 A.M. can be said to be during hours when normally one is expected to have rest and sleep. Likewise in the first shift only the work from 2 A.M. to 6 A.M. can be said to be during unnatural hours. Taking note of the fact, that in the A.C.C. Unit at Madukarai, night allowance is being paid, it seems to me, that the same principle should be followed in this factory also. Mr. Roy's evidence discloses, that night allowance is being paid at Madukarai at 25 per cent. of the basic wages. There is no satisfactory proof of the fact that 25 per cent. of basic wage and dearness allowance is being paid as shown in the statement of demands. At best the workers in the factory in dispute will be entitled to night allowance for only four hours in each shift, *i.e.*, in the 'C' and 'A' shifts. It is therefore sufficient to direct an extra payment of 12½ per cent. of the basic wages earned by the workers, who work in the 'C' and 'A' shifts for those days only. I find accordingly.

86. *Issues Nos.* 11 *to* 14 *in I.D. No.* 65 *of* 1953.—These issues relate to demand No. 7 in respect of payment of regular attendance allowance. In the memo. Ex. W. 13 the workers pray, that these issues may be left open. Accordingly, the questions raised in these issues are not decided herein and are left open. This, however, will not prejudice the existing right of any workers who are in receipt of any regular attendance allowance.

87 *Issues Nos. 15 and 16 in I.D. No. 65 of 1953 and 22 in I.D. No. 278 (Central) of 1953.*—These issues raise the question of house rent allowance and relate to demand No. 8.

88. It is alleged in the statement of demands, that the company is paying house rent allowance as follows to the monthly paid or time-rated workers:—

For salary upto Rs. 40 p.m.—Rs. 2-0-0

For Salary upto Rs. 75 p.m.—Rs. 4-0-0

For salary upto Rs. 125 p.m.—Rs. 7-8-0

For salary above Rs. 125 p.m.—Rs. 12-8-0

To the clerical staff house rent is being paid as follows:—

For salary upto Rs. 34—Rs. 4-0-0 p.m.

For salary from Rs. 35 to Rs. 64—Rs 7-8-0 p.m.

For salary from Rs. 65 to Rs. 195—Rs. 12-6-0 p.m.

For salary from Rs. 200 and above—Rs. 17-8-0 p.m.

89. The contention on behalf of the workers is two-fold:—

(i) That house rent allowance should be paid to piece-rated workers also.

(ii) That all workers should be paid house rent allowance in the same way as is being paid to the clerical staff.

90. Taking the first contention, it is argued by Mr. G. Ramanujam that there is no reason for discriminating against the piece-rated workers. The contention on behalf of the management is, that their company alone is granting house-rent allowance to the workers, that A. C. C. Madukarai is granting free quarters to some of the workers only, that others are asked to make their own arrangements and shift for themselves, and that in India Cements also no house rent allowance is paid. It is urged, that there is no force in the plea that piece-rated workers should be allowed house rent allowance just as the time-rated workers, and that the said demand was rejected by the Tribunal as is clear from the decision in Dalmia Cement Workers *Vs.* The management of Dalmia Cements Limited, Dalmiapuram, 1951-II, L.L.J. 153. It is also pleaded, that piece-rated workers have flexible earnings, that they can increase their earnings, and that there is no case made out for grant of house rent allowance.

91. So far as the decision in the above award is concerned, there is no question of principle involved in it. I see no sufficient grounds for holding that the management is entitled to discriminate against piece-rated workers. It is admitted in the course of arguments on behalf of the management, that the piece-rated workers have been working from a number of years past. It is also admitted that some more quarters are being built for the benefit of the workers. The fact that some workers are not being provided with quarters, or that no house rent allowance is being paid in the A.C.C. to all workers cannot make any difference. When the management of this company has provided quarters and is paying house rent allowance to time-rated workers, I fail to see, how the piece-rated workers working in the factory and quarries and mines can be discriminated against. House rent allowance is given so that rent should not be oppressive burden on labour. The same housing difficulties apply to all workers inclusive of those who are piece-rated. I find, that all piece-rated workers should be paid house rent allowance, but the same is liable to be deducted from the wages, if quarters are provided by the management.

92. Taking the second question, the point for decision is about the rate at which the house rent allowance should be paid. The contention on behalf of the workers is, that all workers working in the entire unit, whether time-rated or piece-rated, should be paid at the rate at which it is being paid to the clerical staff. So far as this demand is concerned, I am of opinion, that it cannot be upheld. There is a well recognised distinction between the clerical staff, and the rest of the workers, and as alleged in the counter the clerical staff stand on a different footing. They belong to the educated middle class and their standard of living and social liabilities are quite different from those of the workers. There is a possibility of other members of the family working in the factory and thus increasing their earnings, so far as the workers other than clerical staff are concerned. The above distinction was observed in Calcutta Tramways and Their Workmen, 1953-I, L.L.J., 81. I find, that workers, other than members of clerical staff whether time-rated or piece-rated, are not entitled to house rent allowance at the rates paid to the clerical staff.

93. The question is about the rate at which the piece-rated workers should be paid house-rent allowance. It has not been shown in the evidence at what rate any piece-rated workers are being paid house rent allowance. In the absence of such evidence, I am of opinion, that it is reasonable to fix rate of Rs. 2 per month, as house rent allowance to all piece-rated workers, whether working in the quarries or mines or the factory, without distinction. *Provided that,* if however, the piece-rated workers working in the factory are being paid any house rent allowance at present, at a rate higher than Rs. 2 per month, all piece-rated workers without any distinction inclusive of those working in the mines and quarries, shall be paid house rent allowance at the same rate and on the same scale, as may be paid at present, to piece-rated workers in the factory. The said house rent allowance shall, however, be liable to be deducted from the earnings of all piece-rated workers, if and when quarters are provided for them by the management. I find, accordingly on these issues, and further hold, that the demand for payment of house-rent allowance to all workers, at the same rate and on the same scale as that being paid to the clerical staff, should be disallowed.

94. *Issue No.* 17 *in I.D. No.* 65 *of* 1953 *and* 20 *and* 21 *in I.D. No.* 278 *(Central) of* 1953.—The next point is with reference to leave facilities.

95. The first contention on behalf of the workers is, that all the workers without distinction should be given leave in the same way as the clerical staff. It is argued, that there is no justification why the clerks should be given more leave facilities, than the labourers, that the work of the labourers is more

arduous, and that even though they are entitled to greater facilities they should at least be given the same leave facilities as the staff.

96. Leave is being granted in this factory as follows:—

Clerical workers:

(a) Privilege leave—One month per year,

(b) Sick leave—12 days per year,

(c) Casual leave—12 days per year.

Other Workers:

(a) Privilege leave—18 days per year,

(b) Sick leave—10 days per year,

(c) Casual leave—nil.

97. Secondly, in the statement of demands in I.D. No. 278(Central)/53, it is alleged, that the workers in quarries and mines are also entitled to the same leave facilities as the other workers in the factory.

98. First taking the contention, that the workers should be given the same leave facilities as the clerical staff, the argument on behalf of the management is, that there is no justification for abolition of the distinction between the two sets of workers. It is argued by Mr. Agarwal, that the clerical staff is drawn from the educated middle class, that they have to do mental work, that their duties are more arduous, and that they should be given more amenities. It is further pointed out, that the facilities which the workers are receiving are better than those obtaining in Madukarai and Thalaiyuthu. In Madukarai, the workers are given 18 days privilege leave as per the Factories Act, and 7 days sick leave. In Thalaiyuthu the workers are given 18 days privilege leave according to the Factories Act with no sick leave. But they are given 8 days casual leave.

99. It is common ground, that all the workers get in addition to the leave mentioned above, six festival holidays.

100. In my opinion, the workers cannot be granted leave facilities on the same footing as the clerical staff. It is pointed out, by the management, that the clerks are not paid any higher dearness allowance than the workers. There is no point in the workers exhibiting jealousy in respect of the small concession shown in matters of leave and house rent to the clerical staff. The evidence of Mr. Roy is, that the staff must get more leave because they are middle class families doing brain work. The distinction between the clerical staff and the workers is recognised in 1953, I-L.L.J., 81, Calcutta Tramways and Their Workmen, and also in Firestone Rubber Company of India and Their Workmen, 1952, I-L.L.J., 38. In my opinion, there is no case made out for granting leave to the workers in the same way as the clerical staff.

101. The second contention is, that the piece-rated workers in the quarries and mines should also be granted leave facilities in the same way as the other workers working in the factory. This demand also is resisted on behalf of the management. It is contended, that they are being given leave according to the Mines Act, that prior to the introduction of the Act they were not getting any leave, and that because the Act is now in force leave is being granted according to its provisions. There is provision for leave with wages under Section 51 of the Mines Act of 1952. Granting that the Mines Act lays down the statutory requirements of leave that should be granted to the workers, this cannot be a bar to the grant of greater leave facilities if the demand is justified. In my opinion, there is no case for making any distinction between piece-rated workers in the quarries and mines, and piece-rated workers in the factory, and in departments other than quarries and mines. It is argued on behalf of the management, that there is a tendency on the part of the piece-rated workers to absent themselves needlessly and that if leave should be permitted it must be on half wages. There is no justification for this reservation. In my opinion, all the workers in quarries and mines including those who are piece-rated, shall get 10 days sick leave in the same way as the workers in the other departments. My finding on these issues is:—

(1) that the workers working in the factory including those working in the quarries and mines whether time-rated or piece-rated are not entitled to leave facilities in the same way as the clerical staff, and,

(2) that all workers whether piece-rated or time-rated in the quarries and mines shall be entitled to 18 days privilege leave and 10 days sick leave.

102. *Issue No.* 18 *in I. D. No.* 65 *of* 1953 *and Issue No.* 16 *in I. D. No.* 278 *(Central) of* 1953.—This issue deals with the demand that piece-rated workers should be guaranteed a minimum wage. It is stated, that where piece-rated workers are not given the minimum they must be given full occupational minimum wages and dearness allowance.

103. It is, however, agreed by the Union, that this demand need not be dealt with, and may be left open. *Vide* Ex. W. 13. Accordingly, this question is not decided.

104. *Issues Nos.* 19, 20 *and* 21 *in I. D. No.* 65 *of* 1953 *and Issues Nos.* 13, 14 *and* 15 *in I. D. No.* 278 *(Central) of* 1953.—These issues arise with reference to demand No. 11. The contention on behalf of the workers is, that where a piece-rated worker exceeds the norm by intensive working and putting extra strain, the unit of production in excess of the norm should be paid at double the rate, that at present in cement loading this system is in force, that in piece-rated departments the excess production is paid at 50 per cent. extra of the basic rate, and that it must brought to a uniform basis at the rate paid for the cement loading workers. The contention on behalf of the management is, that the piece-rated workers are bound to work during the entire period of 8 hours in the shift, that they cannot stop the work after completing the minimum work load in about 4 hours, that they sit idle after part of their duty hours and do not work for the full shift hours, stating that they have completed the minimum work-load, that the work-loads are so low, that they can be completed in half the period of the duty shift, and that payment of any excess over the rate for work turned out beyond the work-loads is an incentive payment entirely within the discretion of the management. In addition, the management have requested, that the minimum work-loads must be raised.

105. Considerable evidence has been let in on behalf of the management to show, that the workers finish the work-load assigned to them in less than the shift hours, sit idle for the remaining part of the duty shift, and that they refuse to earn more during the shift hours. Whether there should be revision at all in work-loads is a different matter and I shall deal with this question later.

106. The point for decision is whether the workers are entitled to insist, that they should be paid at double the rates for all production in excess of the norm. The argument on behalf of the workers is, that the normal duty hours are 8 hours in duration, that they are sometimes able to complete the minimum work-load in less than 8 hours as a result of intensive working and extra strain, and that if they are asked to do work in excess of the work-load such excess should be paid at double the rates as it amounts to over-time work. The argument of Mr. Agarwal is, that this demand can bear no comparison to overtime work under the Factories Act. It is pointed out, that under section 59 of the Factories Act, it is provided, that when a worker works in a factory, for more than 9 hours in any day, or for more than 48 hours in any week, he shall be in respect of over-time work, be entitled to wages at the rate of twice his ordinary rate of wages. It is not as though that the double rates demanded are for work done outside the shift hours. The workers demand at twice the rates, for work done during duty hours over and above the minimum work-load fixed for them. In these circumstances, it can hardly be contended, that the demand can be justified on the ground of its amounting to over-time wages. It is more in the nature of an incentive or production bonus and is tantamount to claiming higher wages than those fixed for duties performed within the shift period. In the rejoinder to the statement filed on behalf of the workers in I.D. No. 65 of 1953, it is mentioned in paragraph 32, that such a demand will act as an incentive. The demand cannot be supported under the Factories Act. There is no other enactment which enjoins payment of such rate. When it is in the nature of an incentive bonus or production bonus it is entirely within the discretion of the management, and it is for them to determine the rates at which work done over and above the work-load during the shift hours should be paid for.

107. The above finding does not, however, dispose of the matter at issue in view of the facts of this case. In this connection attention has been drawn to Ex. M. 22 which is the copy of an agreement arrived at on the 11th and 12th November 1951 between the representatives of the management and the workers of the Dalmiapuram factory. It fixes minimum work-loads, and also fixes the

rates to be paid. In the last paragraph, it is provided, that the matters settled in the agreement shall be binding on the parties for a period of one year, and that neither party will agitate the same question either before a Tribunal for by way of strike, for a period of one year from the date thereof. No reliance can be placed upon this agreement, as disentitling the workers to make a demand for extra wages for piece-rated for work done during shift hours in excess of the norm. There is no such provision, and in any case, the parties were not at liberty to agitate for a change in the terms only for a period of one year from the date of agreement.

108. The question, however, is whether for the excess work done during shift hours, wages at double the ordinary rate should be paid. In the statement of demands it is alleged, that at present in Cement loading double the rates are paid, that in other piece-rate departments excess production is paid at 50 per cent. extra, and that a uniform rate of double the rates should be fixed. In the counter filed on behalf of the management it is alleged, that the management offered to pay "piece rate and half" for work done in excess of the work-load, that this system is working in some of the departments and that in packing house the workers have coerced the company into paying double the rates as otherwise heavy demurrage would be incurred. It is alleged in paragraph 11.9, that there are no fixed hours during which wagons are placed for loading, that there is no regulation as to the number of wagons, which may be placed, that the workers during the shift load only 8 tons, and refuse to do further loading even though the time of the period of the shift had not ended, that to avoid demurrage the company had been obliged to at such times to make payments at double the rates to the cement loading mazdoors, and that this extra payment cannot be taken as a precedent. There is no doubt, at all, that the management is paying at double the rate for work done, over the minimum work-load, in the cement loading section. Mr. Roy deposes, that attempts were made to get work from the workers at the existing rates also, and at 1½ per cent. times more than the piece-rates. But as there was fluctuation in the supply of wagon the management had to face difficulties. The piece-rate workers would not work, and they would not allow other casual labourers to be brought in for loading wagons. These difficulties were created, when there was excess supply of wagons over the quota. When there were excess wagons, and when the labourers would not work, and also not allow others to be brought in, the management had to pay heavy demurrage. It is thus explained, that the management had been compelled to pay at double the rates to the cement loading mazdoors, for work done in excess of the work-loads, even though it was done in full shift hours.

109. Even though payment of incentive bonus is entirely within the discretion of the management as stated above, they themselves have been paying at twice the rates in the cement loading section. Whatever reason prompted the management to pay at double the rates, they cannot be heard to say now, that the existing practice can be interfered with, or that they can disclaim payment of double the rates, so far as the cement loading mazdoors are concerned. Such an act would be contrary to the terms and conditions of service of the cement loading mazdoors which have become established as a matter of practice What reasons impelled the management to accede to the demand by the said workers is immaterial.

110. Granting that the cement loading mazdoors are being paid at double the rates, it does not necessarily follow, that whatever work is done in excess of the norm should be paid for at double the rates to all piece-rate workers other than cement loading mazdoors, and working in other departments There is no justification for this in law or in practice. The evidence establishes at best, that the management has been paying 50 per cent. extra over the normal piece-rate As I have already stated above, it is only in the nature of incentive bonus, and is entirely within the discretion of the management. The workers cannot demand at twice the rates, in the same way as cement loading mazdoors The other piece-rated workers have been accepting rates at 1½ per cent. times the ordinary rates. There is no proof of any overriding reason for increase in the rate to double the piece-rate. I find, that this demand should be rejected. My finding on these issues, is, that payment at over and above the ordinary rate, for work turned out by piece-rate workers in excess of the minimum work-load during working hours, is entirely within the discretion of the management; however, only the cement loading mazdoors, are entitled to payment at twice the rate of wages for piece-rate work done in excess of the minimum work-load during duty hours as per existing practice. I further find, that such other piece-rated workers as are being paid piece-rate and half at present are entitled to recover only 50 per cent. extra over the piece-rate for all work done in excess

of the work-load during the shift hours, and that they are not entitled to payment at double the ordinary rate.

111. *Issues Nos. 22 and 23 in I.D. No. 65 of 1953 and Issue No. 18 in I.D. No. 278 (Central) of 1953.*—These issues relate to demands Nos. 12 and 13.

112. The contention on behalf of the workers is, that the following categories of piece-rate workers *viz., Refractory, Mills House Mazdoors, Refractory* Moulders, Refractory clot makers, Refractory finishers, Refractory setters, Refractory loading and unloading maistries, Godown workers, Stores unloading maistries, Grinding media workers, Cement loading workers, Coal unloading and stacking workers, should be brought into time scale, and that piece-rated workers should also be given annual increments in the same way as other time-rated workers. These demands have been kept open at the request of the Union and no decision is given thereon. (*Vide* memo Ex. W.13.)

113. *Issues Nos. 24 and 25 in I. D No. 65 of 1953.*—These issues relate to the question of gratuity. The gratuity rules are sought to be revised both on behalf of the workers, and on behalf of the management. The gratuity rules at present existing are as per Ex. M.18, and it is stated in Ex. M.19 that they take effect from 1st January 1952. Ex. M.30 to 35 are the letters that passed between the Union and the management in respect of revision of gratuity rules.

114. The workers want Rule No. 1 to be as follows:—

> '*Rule No.* 1.—An employee of the company who is classified as permanent and piece-rate or his dependents, as the case may be, must be eligible for the benefit of the gratuity even though he may be transferred from one concern to another under the management of Sri J. Dalmia'.

This proposed amendment is accepted by the management, and there will be an addition to Clause 1 in Ex. M. 18 as "e" in the following terms:—

> "If he is transferred from the services of the company to any of the allied companies under the management of Sri J. Dalmia, gratuity will be paid for the period of service rendered to this company upto the time of transfer."

115. Secondly, the workers want a rule in the following terms:—

> "Gratuity will be paid for the entire period of service as for instance if a person has served 40 years he should be paid gratuity for 20 months wages."

The contention on behalf of the workers is, that there should be no ceiling, fixed for the amount of gratuity paid, and that it should depend on the length of the total service put in by the worker. The argument on behalf of the management is, that the workers are getting increased provident fund benefits under the Employees Provident Fund Act, that benefits have been increased by nearly 150 per cent, that total wages are now being taken into account, and not merely the basic wage, and that considering the increased benefits now available, under the Provident Fund Act, there must be a ceiling, and that gratuity should not exceed six months basic wages in all. There is no doubt, that there is a Provident Fund Scheme, operating for the benefit of workers. In a number of other concerns, it is usual to fix a ceiling for the amount of gratuity paid. In this connection attention may be drawn to Ex. M. 33 where the workers suggested that a ceiling of 15 months basic earnings may be fixed as in the case of A.C.C. Company. It is pointed out on behalf of the management, that in the A.C.C., there is no Provident Fund. It seems to me, that the ceiling of 12 months basic wage should be fixed as the maximum of the gratuity to be paid, and this is fair and reasonable. Accordingly, Rule 2 of Ex. M. 18 shall read as follows:—

> "Gratuity payable will be calculated on the basis of half month's basic earnings for each completed year of continuous service ending with the date of leaving the company's service, subject to a maximum of 12 months basic earnings."

116 Thirdly, the contention on behalf of the workers is, that the basis of calculating the gratuity should be the basic wage on the basis of the pay last drawn. The contention on behalf of the management is, that there is no objection if the average of 12 months wages last drawn is taken into account. But Mr. G. Ramanujam argued, that the average of 12 months earnings should be

confined only to piece-rated workers. I am of opinion, that the contention of the workers should be accepted. The rule shall be as follows:—

"Calculation of gratuity shall be the basic wage, not including overtime wages, or any allowance, or bonus or other benefits; the amount of half month's basic wage against any year of service will be arrived on the basis of (i) the pay last drawn in the case of time-rated workers and (ii) the average of the preceding 12 months basic earnings in the case of piece-rated workers."

117. Fourthly, there is a demand that "dependents" of any employee shall mean the "legal heirs". It seems to me, that the demand as put forward by the Union will lead to complications, and is likely to compel the management to insist on a production of succession certificate if the general term "legal heirs" alone is used. In my opinion, Rule 6 may be amended as follows:—

"*Rule* 6.—The dependents of an employee for the purpose of these rules shall mean and include only the following:

(a) Widow or widows;

(b) Children, minors, or if majors having no independent source of income.

(c) Parents, if dependent on the employee for their maintenance

(d) In the absence of persons in categories, a, b and c, such "legal heirs" who prove their claim by production of a succession certificate."

118. Fifthly, with reference to Rule No. 8 there is no objection on behalf of the management and Mr. Agarwal accepts the same, and Rule No. 8 shall be as follows:—

"Claims for gratuity must be made in writing within one year of the date on which the gratuity becomes payable, after which period no claim for gratuity will be entertained."

119 Sixthly, the workers want rule No. 12 to be as mentioned in paragraph 39 and Mr. Agarwal has no objection to the same. Rule 12 shall be as follows:—

"*Rule* 12.—The Board of Directors of the Company shall have the power from time to time and at any time, to repeal, add to, vary or alter these rules, and frame such other rules, as they may think fit, only after consultation with Union representatives."

120. Seventhly, the workers want Rules Nos. 9, 10 and 11 deleted. Mr. Agarwal has no objection to deletion of rule 9, but objects to the deletion of rules Nos. 10 and 11. Rule No. 9 in Ex. M. 18 shall be deleted.

121. So far as the other rules are concerned, Rule No. 10 provides for payment of gratuity only with the sanction of the managing agents, and rule No. 11 provides that the rule shall be interpreted by the directors of the company whose decisions shall be final and binding. I do not see sufficient reasons to hold, that these should be deleted. They are necessary in the interests of the company and of good management. Rules Nos. 10 and 11 shall be retained.

122. Nextly, the management demand, that certain rules should be revised and incorporated in the existing rules.

123. The first rule proposed is, in the following terms, and this is sought to be added after rule 1:—

"These rules regarding payment of gratuity would not be applicable in the case of a worker who is entitled to gratuity under any law or a special award, for the time being in force, and applicable to him, in which case gratuity will be payable to him according to that law or special award and not according to these rules."

The contention on behalf of the management is, that according to the Industrial Disputes Act a worker is entitled to get retrenchment relief at half the total earnings and of not merely the basic wage, and also without any ceiling, and that if and when retrenchment takes place the worker would be entitled to receive gratuity also, and that this amounts to giving him a double benefit not contemplated by law. This is opposed on behalf of the Union. The rules of gratuity have been in force for some time. Merely because the Statute has conferred certain rights on a worker in case of retrenchment, it does not mean that any gratuity that he may be entitled to should be disallowed to him. I am not in agreement with the contention of the management and the proposed rule cannot be incorporated. This claim is rejected.

124. The second rule that is proposed is in the following terms:—

"No gratuity will be payable under these rules in the events provided in sub-clauses (c) and (e) to rule (1) if the period of service of the employee in the company is less than 2 years."

In the course of argument Mr. Agarwal stated, that he did not press this claim. Accordingly, this demand by the management is disallowed.

125. Nextly, the parties at dispute as to the date from which the gratuity rules should take effect. The contention on behalf of the management is, that they should be effective from 1st January 1952,, and that it should be made clear, that service after the introduction of these rules only will be counted for the purpose of gratuity. The contention on behalf of the Union is, that the gratuity rules should be effective from 26th May, 1949. The argument on behalf of the workers is that the gratuity rules should take effect from 26th May, 1949 as per the award of the Industrial Tribunal and the agreement made by the management with the Union on that date. It is alleged on behalf of the management in Ex. M. 19, that the rules would take effect from 1st January, 1952. The argument of Mr. Agarwal is, that gratuity was allowed by the Labour Appellate Tribunal by its award dated 8th August, 1952, and that it is more reasonable to allow the rules to be effective from 1st January, 1952. The award of this Tribunal is reported in 1951, II-L.L.J., 153, and in paragraph 10, it was stated, that the workers were entitled to both provident fund and gratuity as per the agreements. The judgment of the Labour Appellate Tribunal is reported in 1952, II-L.L.J., 441, and the decision of this Tribunal was confirmed in respect of the claim for gratuity. The argument on behalf of the management is, that the judgment of the Labour Appellate Tribunal is dated 8th August 1952, and that though the gratuity scheme must take effect from only that day, as a matter of convenience 1st January, 1952 might be adopted. I see no reason for upholding this contention The gratuity scheme was arrived at as a result of an agreement, and this was confirmed by the Tribunal in 1951-II, L.L.J., 153. There is no reason for limiting this operation either from the date of the judgment of this Tribunal, or from 1st January, 1952. The rules must take effect from the date of the agreement. It is not disputed, that the date of the agreement is 26th May 1949. I find, that the gratuity rules should take effect from 26th May 1949 the date of the agreement which was confirmed by this Tribunal and by the Labour Appellate Tribunal. I find, that these issues, that the alterations and amendments, as noted above should be accepted and that the rules should take effect from 26th May 1949 the date of the agreement made by the management with the Union.

126. *Issues Nos.* 26, 27, 28 *and* 29 *in I.D. No.* 65 *of* 1953 *and Issue No.* 1 *in I.D. No.* 68 *of* 1953.—These issues raise the question of supply of free uniforms to workers. The contention on behalf of the union is, that three sets of free uniforms should be directed to be supplied by the management to the following categories of workers as enumerated in paragraph 40:—

Gun Powder,
Kiln Greasers,
Cooler Attendants,
Cement Loading Mazdoors,
All Coal mazdoors,
Refractory firemen,
Pottery firemen,
Stoneware pipe firemen,
Coal mill firemen,
Raw Mill firemen,
All oil men,
Stone-ware pipe,
Pottery,
Refractory Mill-house mazdoors,
Coal hopper mazdoors,
Workshop moulders,
Blacksmith,
Hammermen,
Casting workers,

Mason,
Mason-helpers,
Sweepers,
Scavengers,
Gunny Go-down mazdoors,
Packing house fitter,
Fitter-helper,
Valve Operater,
Packing-house mazdoors,
Weight checker,
Cleaners.
Operator,
Packing-house mazdoor,
Packers,
Stone-ware pipeworkers,
Stores unloading workers.

127. The contention on behalf of the workers is, that the nature of the occupation of the several workers is such, that the uniforms are an occupational necessity and part of equipment. The argument on behalf of the management is, that occupations for which uniforms are to be provided by the company have been mentioned in the Factories Act, that in accordance therewith, uniforms have been provided to such persons, that neither in the Madukarai nor in the Thalayuthu Cement factories, are uniforms being supplied to persons other than those contemplated by the Factories Act, and that the demand of the union is really a disguised demand for increase of wages. It is denied, that uniforms are an occupational necessity. It is further asserted, that the company is already giving uniforms to a large category of workers and that there is no need to add to them.

128. A number of workers have been examined with a view to prove their contention. The evidence of W.W. 2 R. Pitchai is, that he has been working as a kiln greaser from the last 14 or 15 years. He was being given dress till 1947, but it was discontinued thereafter. He now uses gunnies to protect himself The giving of hats also was stopped W.W. 15 W. Rathanaswami is a moulder in the refractory. He says, that he has to work in oil, that he is practically bathed in oil, that his dress gets spoiled, and that he must get dress.

129. The evidence of Mr. Roy is, that uniforms should be given only to such persons as are specified in the Factories Act. Ex M. 20 is the comparative statement showing the supply of uniforms in this Factory and in the A.C.C. A perusal of Ex M. 20 shows, that among the workers in the factory, and the quarry workers in the packing house, coal mazdoors, gypsum mazdoors, masons and helpers are being supplied with uniforms. These categories of workers are not supplied with uniforms by the A.C.C.

130. In the statement of demands, uniforms are demanded for practically every worker connected with the factory. In the course of arguments, however, Mr. Ramanujam has modified his claim, and contended, that it is sufficient if uniforms are supplied to such workers as were directed to be supplied in 1953—II, L.L.J., 845 A.C.C. Limited, Madukarai and their workmen. It was laid down by the Labour Appellate Tribunal "that where the duties of the workmen are of such a nature, that they involve wear and tear and soiled clothes, beyond what is normal in a person's occupation, the concern should supplement the workmen's clothes with their own issue". It was held, that there was little doubt or dispute about the category of workers to whom uniforms should be supplied. They are:—

1. Watchman,
2. Kiln Greasers,
3. Coal Mill Attendants,
4. Loco Firemen,
5. Oilers,
6. Greasers,
7. Moulders, and,
8. Loco Drivers.

Ex. M. 20 shows, that coal mazdoors and watchmen are among those who are already being supplied with uniforms. The argument on behalf of the management is, that they will confine the supply of uniforms only to such of those as are mentioned in the decision referred to above, and that they will discontinue supply of uniforms to the rest. This contention cannot be accepted. The already prevailing practice cannot be interfered with. I find, that all the workmen set out in Ex. M. 20 shall continue to be supplied with uniforms in the same way as hitherto. I further find, that in addition the following workers shall be supplied with two sets of free uniforms every year *viz.*,

1. Kiln Greasers,
2. Coal Mill Attendants,
3. Loco Firemen,
4. Oilers,
5. Greasers,
6. Moulders, and,
7. Loco Drivers.

131. *Issue No.* 31 *in I.D. No.* 65 *of* 1953.—This issue raises the question of supply of shoes and hats to kiln greasers, cooler attendants and firemen. The contention on behalf of the management, is, that shoes and hats are not necessary for kiln greasers, cooler attendants and firemen, that there is no obligation in the Factories Act to supply the same, and that neither in the A.C.C. Limited, nor in India Cements is there free supply of shoes and hats. In the decision referred to above, there is no direction for the supply of free shoes and hats. The only evidence that we have is, that of W.W. 2 R. Pitchai already referred to, and his evidence is that he was being supplied with shoes and hats till 1947, and that the supply of dress was stopped in 1947. The evidence of Mr. Roy is, that there is no necessity for hats and shoes to be supplied to kiln greasers, cooler attendants and firemen. No other factory in India supplies them to such workers. He is in service from August 1947. However, in view of the evidence of W.W. 2, that hats were supplied till 1947, it seems to me, that there must be a direction that hats should be supplied to kiln greasers free of cost by the management. There is no case made out for supply of shoes to any of the workers, or of hats to cooler attendants and firemen. I find on this issue that a hat shall be supplied free to every year, to the kiln greasers only. The demand in other respects is rejected.

132. *Issue No.* 30 *in I.D. No.* 65 *of* 1953.—The contention on behalf of the workers is, that heat allowance must be given to certain classes of workers considering the conditions of excessive heat under which they have to work, and that this should range from Rs. 5 to Rs. 10 depending upon the nature of work done. The demand is made in the following terms and is made in respect of the following workers in paragraph 41:—

'Workers employed on the following machines have to work under extraordinary high temperature, and this hazard will have to be compensated specially:—

Kiln Greasers,

Coller Attendants,

Stone-ware Pipe, Pottery, Refractory, } Firemen,

Raw-mill Furnace Firemen,

Coal-mill Furnace Firemen,

Steam Loco Firemen,

Steam Loco Driver,

Blacksmith,

Hammermen,

Deisel Generator Driver,

Deisel Generator Operator,

Mason,

Mason helper who is engaged for kiln lining work, work-shoping casting work,

133. The contention on behalf of the management is, that neither in Madukarai factory nor in the Thalaiyuthu factory or for the matter of that in any factory in India, is heat allowance being granted to any worker. It is further contended, that normally in every manufacturing plant there will be present a certain amount of heat, but not so hazardous or unendurable as is sought to be made out on behalf of the workers, that the company is already giving a special allowance to the cooler attendant at the rate of Rs. 8 per month, that kiln greaser has an allowance of Rs. 5 per month, and that the demand of the workers cannot be met. The evidence of Mr. Roy is, that there is no such thing as heat allowance in Thalaiyuthu or Madukarai. Heat allowance is being given to cooler boys in the dry process. Something more that what is paid to other greasers is being paid to the kiln greaser. He further deposes, that the workers other than the cooler boys are not working under any special conditions. He states, that the temperature at the place where the steam loco driver and firemen work may be about 10 per cent. higher than the atmospheric temperature. At or near the diesel engine, similarly the temperature cannot be more than 10 per cent. higher. But the diesel engine is rarely worked. The firemen in the refractory and pottery sheds, work in the open, in front of the furnace, and the temperature at the place where they work, would not exceed the atmospheric temperature generally, and even then it would not be more than 10 per cent. higher. The firemen do not feed coal into the furnace continuously. At the time of starting they may showel coal once in half an hour, and thereafter it may be once in 15 minutes. The whole operation may not take more than 15 to 20 seconds. The mason and mason helper go inside the kiln and do their work only when it is cooled down. The officers go inside, and after an inspection the lining work is taken in hand. There is no uncomfortable temperature at the time. I see no sufficient grounds for holding that any heat allowance should be paid. The evidence of Mr. Roy, disproves, that the temperature conditions in the occupations mentioned on behalf of the workers are so unbearable or hazardous as to require payment of special allowance. The evidence of some workers, that they have to work under a temperature of 400 degrees shows the absurd lengths to which they go. As admitted on behalf of the management the kiln greasers and cooler attendants are already getting extra allowance. There is no justification for payment of extra allowance to any other workers. I find, that the demand for payment of a separate heat allowance to the categories of workers as mentioned in the statement of demands is untenable, but the management will continue to pay the kiln greaser and the cooler attendants the extra allowance now being paid to them.

134. *Issue No. 32 in I.D. No. 65 of 1953.*—The next question is with reference to the demand for increase of the minimum work-load as set forth in the counter on behalf of the management.

135. It is alleged in paragraph 18 of the counter, that the current work-loads in the different piece-rated jobs were settled by agreement, made with the union on the 11th and 12th November 1951, that the workers are committing a breach of faith by refusing to work in excess of the work-load and sit idle within the shift duty hours even though it is quite possible for them to give a considerably better output of work within the hours of their duty above the minimum work-load, and that the minimum work-loads deserve to be increased and the piece-rates determined afresh. It is urged, that the workers are really guilty of "go-slow" policy, and that directions should be given that the completion of the minimum work-load does not serve as licence for the workers to refuse to serve for the full period of their duty hours.

136. The contention on behalf of the workers as mentioned in the rejoinder is, that this demand on behalf of the management is wholly unwarranted and must be rejected.

137. Considerable evidence has been led on behalf of the management in order to prove that the work-loads are low. Ex. M. 21 has been produced as showing the manner in which the work-loads and the piece-rates should be revised. According to the evidence of Mr. Roy, the work-load for cement loading in the packing house is 8 tons per ton per shift. By loading, he means merely loading the paper or gunny bags containing cement into the wagons. Approximately about 20 bags make a ton. The minimum work-load in Madukarai is 30 tons per head per shift. There is machine packing in Madukarai. At Thalaiyuthu it is 14 tons where only hand packing goes on. Mr. Roy has attempted to prove, that the workers finish their work in about half the time of the shift, and sit idle the rest of the time. According to him, there was a sitting of the Tripartite Sub-Committee two days before his examination before Court. He and Mr. Palaniyandi were members of the Committee. At the packing house it was found that in 40 minutes a wagon was loaded. That wagon was 18 tons 7 cwt. This was done by 8 men. The contention on behalf of the management is, that this

evidence shows, that 8 men could load 27.7 per hour. Nextly, Mr. Roy deposes, that in the coal unloading section, it was found that in unloading a ten ton wagon, in half an hour two workers unloaded 7.30ths of the whole. This means, that in 5 hours one can unload 10 tons. He mentions, that, in the packing house and unloading sections, the workers finish their work in 3 to 4 hours, and that afterwards they remain inside the factory idling their time, and that they refuse to work in the remaining hours of work shift. The management addressed the Labour Commissioner also to direct them to work during the shift hours. The workers agreed to turn out work more than the minimum work-load within the shift hours, if they were paid extra wages. It is argued for the management, that Mr. Roy's evidence about what he observed along with Mr. Palaniyandi has not been controverted, that Mr. Palaniyandi has not chosen to go into the box, and that there are no reasons for doubting the truth of the evidence of Mr. Roy.

138. Nextly attention is drawn to Exs. M. 1 and M. 2 which are 'Ibcons' reports. Exs. M. 61 and M. 62 are the full reports of "Ibcons". Mr. Roy states, that he studied the Ibcons reports, and that their recommendation is 20 tons for close wagons from the packing machine per head per shift. For loading from stacks, they recommended different work-loads for different distances. Particular emphasis is laid by Mr. Agarwal on page 6 of Ex. M. 2, paragraph 17, wherein it is mentioned, that during the period 16th March 1954 to 31st March 1954 each batch worked on an average for period of 2.1 hours, during a shift period of 8 hours to complete this work-load of 8 tons per head. In paragraph 20 it is stated, that on an average each batch completed the work-load in 2 to 3 hours during the shift period of 8 hours. Attention is next drawn to page 8, paragraph 30, wherein it is remarked, that the current work-loads are low. Stress is laid on the several tables that have been set forth, as showing the proposals for increasing the work-loads, so far as cement loading is concerned.

139. Ex.M.1 has been produced with reference to coal unloading. Reference is made to page 5 paragraph 14, that the recommendation was that men should be paid on the basis of individual performance instead of on the performance of the whole gang.

140. Emphasis is laid on the evidence of Mr. Char, who is associated with the Ibcons Limited and who made the observations as set out in Exs. M. 1 and M. 2. His evidence is, that from his study, he is led to conclude, that the work-loads in the coal department and the packing house are less than the standard work-loads, and that the standard work-loads are as set out in his reports. In cross-examination it has been elicited, that he has had no experience of studying other cement factories at work. By labour matters, he means, what a man can do with 100 per cent. index without reference to his earnings. He explains, that in arriving at 100 per cent. index, rest and normal wastage of time are taken into account.

141. The management have next placed reliance on the evidence of Mr. Menon M.W. 3, and Exs. M. 50 and M. 51. Mr. Menon is working in the packing house. According to him, the packing house mazdoors are all piece-rated and finish their work-loads in 2½ to 4½ hours. The rest of the time, they remain in the factory of the packing house doing nothing. He received complaints that they were spreading gunny bags and sleeping on them in the packing house. Ex. M. 50 contains the gate passes issused to them while leaving the factory after finishing their work-load. Ex. M. 51 is the report showing the time during which the workers finish their work. According to the evidence of Mr. Menon, there are about 140 workers in the packing house. They are rotated in three shifts, each shift being of 8 hours duration. In the shift from 2 A.M. to 10 A.M. 25 workers work. In each of the other two shifts 55 to 60 workers work. It has been brought out in cross-examination, that on 30th November 1953 only 10 gate passes were issued because the others had not completed their work. On 3rd December 1953 only 7 workers were given gate passes. It is also proved from his evidence, that in the 2 A.M. to 10 A.M. shift, only one plant works. In the other two shifts both plants work. He admits, that he did not take part in the production of the reports in Ex. M. 51.

142. The contention on behalf of the workers is, that there is no case made out for stepping up the work-loads, and that on the contrary, the work in the factory has increased. It is urged, that now the workers have to cope with the existence of two plants where formerly there was only one plant.

143. On a consideration of the entire evidence, I am of opinion, that there is no case made out for revision of the work-loads. The work-loads were fixed as per agreement in Ex. M. 22, so recently as in November 1951. The evidence of Mr. Roy is, that the Labour Commissioner made the recommendation of work-load of 8 tons for cement loading as the minimum without any study. The management accepted this without protest. He recommended 5 tons for coal unloading. Mr. Roy cannot remember if the management wanted 10 tons for

cement loading and 7 tons for coal unloading. The Labour Commissioner's recommendations were accepted in the award, dated 26th March 1951. There can be no doubt that Ex. M. 22 was arrived at after a great deal of deliberation and in the presence of a number of prominent parties, including Mr. R. Venkataraman and Mr. Palaniyandi, on behalf of the workers, and Mr. Roy and Mr. Agarwal on behalf of the management. It is hardly possible for the management to hold, that the work-loads and rates were fixed without the management being aware of the implications thereof. One cannot lightly set aside the arrangement and introduce a different system, in face of the dissent expressed by the workers, and especially when the agreement has been in operation for not more than three years. It is true, that the agreement provides in para. 14, that the agreement shall be binding on the parties for one year. Even then the agreement was arrived at after a deal of deliberation and should not be disturbed at short intervals. Such interference would disrupt industrial peace and harmony.

144. Moreover, it must be brone in mind, that the evidence discloses that the workers are working in batches. The work-load was not fixed individual-war. Mr. Menon states, that the packing house mazdoors work in batches. They do not work simultaneously. One batch begins to work after the other finishes, its work-load. There are 5 batches for the new plant and three for the old. The batches cannot work simultaneously because the machinery is designed like that. When one batch of workers is working, the other batch has to be sitting outside waiting its turn. Within their turns, the batches must complete the work-load. and normally a batch consist of 8 or 9 workers. There is a particular system being followed in this factory with reference to cement loading and it is hardly possible to accept straight away the recommendations of Messrs. Ibcons based on the observations of Mr. Char. who did not work in any other cement factory. The report Ex. M. 1 shows, that the coal unloading mazdoors also work in gangs. It is pertinent to note, that in Ex. M. 2 at page 6 it is observed, that the piece-rate wages earned, are not calculated batch-wise but machine-shift-wise, and that the wages earned in a day by all the batches on a machine shift were distributed equally between the men present during the machine shift. The interim observations of Mr. Roy and Mr. Palaniyandi cannot set at naught the agreement arrived at between the parties.

145. It is important to note, that the work-loads were fixed after the factory had worked for nearly twelve years ever since it commenced operation in 1939. It is argued by Mr. Ramanujam, that if the workers are able to finish work within the shift hours, it is due to intensive working and extra strain. It is also pointed out, that this is due to the batch system prevailing in the factory. It is further urged, that it is impossible for a worker to go on continuously lifting bags every minute of all the eight hours, considering the enormous amount of strain and fatigue involved. It is contended by Mr. Ramanujam, that a human being is not a machine, that climatic conditions should be taken into account, and that 100 per cent. efficiency based on American business methods cannot be imported into this country straightaway. More important that all, attention is drawn to the observations of this Tribunal at 1951—II, L.L.J., 153 at page 161 about the work-loads. They are to the effect, that the suggestion of the Labour Commissioner should be carried out. This was not interfered with in appeal as can be gathered from 1952—II, L.L.J., 451. The work-load fixed in the award was 8 tons for cement loading and 5 tons for coal unloading.

146. It is also stated by Mr. Ramanujam, that the Tripartite Committee will also deal with the question of work-loads, and that it will be proper to consider their recommendations after the report is published.

147. Considering all circumstances, I am of opinion, that no case is made out at present for stepping up the work-loads or interfering with the loads and rates as per agreement Ex. M. 22.

148. *Issues Nos.* 33 *in I.D. No.* 65 *of* 1953 *and* 27 *in I.D. No.* 278 (*Central*) *of* 1953.—In view of my findings above, the directions as demanded in paragraph 18-12 of the counter of the management cannot be given.

149. *Issue No.* 34 *in I.D. No.* 65 *of* 1953 *and Issue No.* 28 *in I.D. No.* 278 (*Central*) *of* 1953.—The contention on behalf of the Union is, that there is an agreement, according to which, the management agreed that whatever award was passed in the present reference should take effect from the 25th July 1953. Reliance is placed upon Ex. M. 10, dated 25th July 1953 under which there is provision for payment of two months' basic wages as bonus for the year 1952, and for referring other matters in dispute for adjudication. The contention on behalf of the management is, that no retrospective effect can be given to any award that may be passed, and that it can take effect only from the date of the award. From a perusal of Ex. M. 10 I am unable to hold that it was ever

agreed by the management that the award should take effect from its date. In my opinion, the decision in 1953—II, L.L.J., 845. The Associated Cement Companies Limited, and Sevalia Cement Works and Their Workmen is applicable to the facts of this case, and the principles laid down therein, *viz.*, that the award should take effect from the date of the reference and that this is the general practice, should be followed. I find, that the awards in all the three references shall take effect from the date of the first reference in I.D. No. 65 of 1953 except that the gratuity rules shall be effective from 29th May 1949 as already found.

150. *Issues Nos.* 1, 2 *and* 3 *in I.D. No.* 278 (*Central*) *of* 1953.—These relate to the question of payment of compensation for involuntary unemployment.

151. The contention on behalf of the workers is, that all workers affected by involuntary unemployment should be granted compensation of at least 50 per cent. of basic wages and dearness allowance. The contention on behalf of the management is, that according to the provisions of the Standing Orders Ex. M. 16, the workers are liable to be laid off for reasons beyond the control of the management, that during the year 1952-53 there was power cut, that a settlement was arrived at on 17th and 18th March 1952, according to which a rotation system of work was introduced in the quarries and 3 days work was provided to all the workers, that the settlement was further reiterated in the agreement on 22nd March 1953, and that accordingly no compensation can be claimed.

152. The workers claim compensation for involuntary unemployment for four months *viz.*, March, April, May and June 1953. Ex. M. 45 is produced on behalf of the management as showing the extent of the power cut and the reduction in production. The evidence of Mr. Roy is, that other efforts were made to supplement the power supply on account of the power cut. Three diesel generating sets were purchased at a cost of 5:79 lakhs, and these were put in commission in the beginning of 1953. Ex. M. 45 shows correctly the power supply from Government sources and from the diesel generating sets. Full power supply was restored by Government in July 1953 and the sets were stopped on 5th July 1953.

153. There can be no doubt that a section of the workers was laid off in the quarries and mines. Ex. M. 36 to M. 41 are the orders in connection with the laying off of the workers. Obviously, the agreements arrived at with the workers and referred to in the counter are Ex. M. 42, 43 and 44.

154. The first contention raised on behalf of the management is that the agreements do not contain any direction as to payment of compensation, and that in these circumstances they are a bar to the claim for compensation. I am unable to uphold this claim. Even assuming for a moment, that there is no provision for payment of compensation for involuntary unemployment in the agreements, they do not operate as a bar to the entertainment of the claim. It cannot be held, that the workers gave up their claim to compensation or that they are estopped in any manner from putting forward the said claim now.

155. The second argument on behalf of the management is, that under the standing orders Ex. M. 16 the management have a right to play off the workers. Reference is made to Standing Order No. 12, as providing for stoppage of work for causes beyond the control of the management. The contention on behalf of the workers, is, that these standing orders relate to Dalmia Cement Limited, that we are now concerned with Dalmia Cement (Bharat) Limited, and that they cannot apply to the facts of the present case. It is, however, pertinent to note, that a number of agreements relied upon on behalf of the workers and more particularly Ex. M. 22 were entered into with the old Dalmia Cement Limited. It is only as a result of the scheme approved by the High Court that Dalmia Cement (Bharat) came into existence in 1952. There is no doubt a technical flaw, in the fact, that no separate standing orders as applicable to Dalmia Cement (Bharat) Limited have been produced. However, the principle, that the management is entitled to lay off the workers or play them off in the event of catestrophe for which they are not responsible, has been well recognised and must be affirmed.

156. Involuntary unemployment from March to June 1953 was due to power cut which was beyond the control of the management. The power cut itself became necessary on account of an Act of God. Therefore, there can be no doubt at all that the management were justified in playing off the workers. It was because of this, that the agreements were entered into for play off. I find, that the partial unemployment was justified and that it was due to causes beyond the control of the management.

157. The question, however, is whether any and what compensation can be given in such circumstances. The workers rely upon the amendment to the Industrial Disputes Act. It is contended that the amendment came into force on 24th October 1953, and that according to the principle of the amendment, the workers that were laid off in the quarries and mines are entitled to compensation at 50 per cent. of their basic wages and dearness allowance for the days of involuntary unemployment. The argument for the management is, that the unemployment now in question was prior to the date of coming into force of the amended section 25-B, and that the workers cannot claim compensation on the basis of the said section. In Spencer Company Limited and Labour Appellate Tribunal and others, 1954, II, L.L.J., 310, it was held, that the Industrial Disputes Amendment Ordinance was not retrospective, and that it cannot be made applicable to a dispute which arose and which was adjudicated upon before the ordinance was passed. Therefore the workers cannot base their claim strictly on the ordinance in question. The contention, however, by Mr. Ramanujam is, that the principle of the Ordinance should be followed. It has been laid down in a number of decisions, that in the event of play off, wages or compensation can be allowed as a matter of grace. The decision in Vizagapatam Sugars Refinery Limited, Anakapalle and their Workers is a case in point, and 1/3 wages was given for the period of non-employment. On behalf of the management Ex. M. 46 has been filed to show, that the workers were given alternative employment. The evidence of Mr. Roy is, that on days on which no work was available alternate work was given to the workers in the quarries and mines who were affected by the power cut.

158. It seems to me, that even though Section 25-B is not retrospective, the principle of the said section should be applied to the facts of this case. I find, that the workers in question shall be paid by the management 50 per cent. of the basic wages and dearness allowance which they would have otherwise earned for the days on which no employment was given to them on account of the imposition of power cut. But the days on which the said workers were on leave and which were holidays will be excluded. The said relief for compensation shall, however, be subject to a maximum of forty-five days and shall in no case be for more than these days.

159. *Issues Nos.* 4, 5 *and* 6 *in I.D. No.* 278 (*Central*) *of* 1953.—These relate to the abolition of contract labour in doing the work of laying the permanent way in all the three quarries and removal of murrum or over-burden. The contention on behalf of the workers is, that this work should be legitimately undertaken by the company itself. This demand is resisted on behalf of the management. The workers have prayed, that this question should be left open. *Vide* Ex. M. 13. These issues are accordingly left open.

160. *Issue No.* 7 *and* 8 *in I.D. No.* 278 (*Central*) *of* 1953.—The next question relates to the revision of work-load for persons employed in (1) Hand drilling, (2) Machine drilling and breaking and (3) Loading. The case for the workers is, that the work-loads as they exist at present are excessive, and that they must be reduced as mentioned in paragraph 10. This question also has been agreed to be left open. *Vide* Ex. W. 13, and it is not decided herein.

161. *Issue No.* 9 *in I.D. No.* 278 (*Central*) *of* 1953.—The management have raised the contention in paragraph 3, that there is a case for increasing the work-loads at present exisitng, which are unduly low, and that they must be increased as mentioned in paragraph 3(6). On behalf of the management a memo. Ex. M. 65 was filed on 11th September 1954 stating that this question might be left open, and that no decision need to be given. Accordingly, the question raised by this issue is left open.

162. *Issue Nos.* 10 *and* 11 *in I.D. No.* 278 (*Central*) *of* 1953.—These issues relate to lead and lift. The contention on behalf of the workers is, that whenever the lead and lift exceed 50 and 5 respectively, an extra hand should be provided in the case of loading. This question also has been agreed to be left open by the Union. (*Vide* Ex. W. 13.)

163. *Issues Nos.* 12 *and* 16 *in I.D. No.* 278 (*Central*) *of* 1953.—These issues relate to the demand for payment of work done if trucks are not supplied according to work-load. The union has stated in Ex. W. 13, that these issues may be left open. Accordingly, they are left open.

164. *Issue No.* 26 *in I.D. No.* 278 (*Central*) *of* 1953.—The next point is with reference to the demand for increase in maternity benefit allowance.

165. The contention on behalf of the workers is, that at present a sum of Rs. 42 is being given to workers towards maternity benefit allowance, that this

is grossly inadequate, that in the A.C.C. Limited Cement Factory at Madukarai Rs. 50 is being paid, and that therefore the allowance must be raised to Rs. 50. There is no dispute that in fact in Madukarai Rs. 50 is being paid as maternity benefit. However, the contention on behalf of the management is, that there is no case made out for increasing the allowance from Rs. 42. In my opinion, the contention on behalf of the management is well justified. It is clear, that the management are paying maternity benefit according to the Mines Maternity Benefit Act, section 5. That provides for payment at 12 annas a day for the period mentioned therein. It is not disputed, that the management are paying according to the rate fixed by Statute. Nextly, there is force in the contention on behalf of the management, that the present concern cannot be compared to the A.C.C. with far better resources. Another point urged is, that there is no distinction made in the matter of payment of wages as between male and female workers in the Dalmia company. There is no satisfactory proof as to the particular reason which weighed with the A.C.C. for fixing the maternity allowance, at Rs. 50 *i.e.*, at a rate higher than that payable under the Act. It is argued on behalf of the management, that if there is any need for raising the rates, it is a matter best left to the legislature. It is also urged, that there is no satisfactory proof of the fact that maternity benefit is being paid at a rate higher than that fixed under the Act in any other industries in the region. Considering all circumstances, I am of opinion, that it has not been proved, that any satisfactory reason exists for raising the maternity benefit to Rs. 50. The maternity allowance shall be paid as provided in the Statute.

166. With reference to costs, Mr. G. Ramanujam has argued, that they should come out of the industry, and that suitable orders should be given for payment of the same. The contention on behalf of the management is, that the company cannot be directed to finance the activities of the Union. Considering the circumstances of this case, that certain demands have been allowed and certain others rejected, I consider, that there should be no order as to costs.

167. In the result an award is passed in I.D. Nos. 65 of 1953, 68 of 1953 and 278 (Central) of 1953, as follows, on the points referred to me for adjudication:

I. *Point No.* 1 *in I.D. No.* 65 *of* 1953 *and Point No.* 5 *in I.D. No.* 278 *(Central) of* 1953:—

All the workers employed in Dalmia Cement (Bharat) Limited, Dalmiapuram, will be paid a minumum basic wage of Re. 1 per day, or Rs. 26 a month of 26 working days, irrespective of sex.

II. *Points Nos.* 2 *and* 3 *in I.D. No.* 65 *of* 1953 *and Point No.* 6 *in I.D. No.* 278 *(Central) of* 1953:—

The points are left open at the request of parties, and no decision is given thereon.

III. *Point No.* 4 *in I.D. No.* 65 *of* 1953 *and Point No.* 9 *in I.D. No.* 278 *(Central) of* 1953:—

The demand for payment of additional dearness allowance is rejected.

IV. *Point No.* 5 *in I.D. No.* 65 *of* 1953 *and Point No.* 11 *in I.D. No.* 278 *(Central) of* 1953:—

The workers who work in the C and A shifts shall be paid an extra payment of 12½ per cent. of the basic wage earned by them for those days only, by way of night allowance.

V. *Point No.* 6 *in I.D. No.* 65 *of* 1953 *and Point No.* 10 *in I.D. No.* 278 *(Central) of* 1953:—

Each of the workers employed in Dalmia Cement (Bharat) Limited working in all sections of the factory including those in side industries will be paid additional bonus equivalent to one month's basic wage proportionate to the earnings of such employees.

VI. *Point No.* 7 *in I.D. No.* 65 *of* 1953:—

This point is left open and not decided herein. This, however, will not prejudice the existing right of workers, if any, who are at present in receipt of regular attendance allowance, if any.

VII. *Point No.* 8 *in I.D. No.* 65 *of* 1953 *and Point No.* 8 *in I.D. No.* 278 *(Central) of* 1953:—

(a) Each of the piece-rated workers working in Dalmia Cement (Bharat) Limited whether working in factory or in the quarries and mines shall be paid house rent allowance at the flat rate of Rs. 2 per month.

Provided that, if however, the piece-rated workers working in the factory are being paid any house rent allowance at present at a rate higher than Rs. 2 per month, all piece-rated workers without any distinction inclusive of those working in the mines and quarries shall be paid house-rent allowance at the same rate and on the same scale as may be paid at present to piece-rated workers in the factory.

(b) This will, however, be liable to be deducted from the earnings of all piece-rated workers, if and when quarters are provided by the management.

(c) The demand for payment of house rent allowance to all workers at the same rate and on the same scale as that payable to the clerical staff of the company is disallowed.

VIII. *Point Nos.* 9 *in I.D. No.* 65 *of* 1953 *and* 7 *in I.D. No.* 278 (*Central*) *of* 1953:—

(a) The workers working in the factory including those working in the quarries and mines, whether time-rated or piece-rated are not entitled to leave facilities in the same way as the clerical staff, and

(b) All workers whether piece-rated or time-rated in the quarries and mines shall be entitled to 18 days' privilege leave and 10 days' sick leave with wages.

IX. *Point No.* 11 *in I.D. No.* 65 *of* 1953:—

(a) The existing practice of paying to the cement loading workers in the packing house at double the ordinary rate for work turned out in excess of the minimum workload, during shift hours, shall continue to prevail.

(b) Such other piece-rated workers who are at present being paid 50 per cent. extra of the piece-rate for the work done in excess of the workload during the shift hours shall be paid at the said rate of piece-rate and half according to the existing practice and not at double the ordinary rate as demanded.

X. *Point* No. 10 *in I.D. No.* 65 *of* 1953:—

No decision is given on this point and the issue is left open.

XI. *Point Nos.* 12 *and* 13 *in I.D. No.* 65 *of* 1953 *and Point No.* 2 *in I.D. No.* 278 (*Central*) *of* 1953:—

No decision is given on these points as requested by parties and they are left open.

XII. *Point No.* 14 *in I.D. No.* 65 *of* 1953:—

(a) The Gratuity rules as modified are set out in Annexure 'A'.

(b) The Gratuity rules as modified shall take effect from 26th May 1949.

XIII. *Point No.* 15 *in I.D. No.* 65 *of* 1953 *and Point No.* 1 *in I.D. No.* 68 *of* 1953:—

(a) The following categories of workers shall be supplied with two sets of free uniform every year at the expense of the management:—

1. Kiln Greasers.
2. Coal mill attendants.
3. Loco Firemen.
4. Oilers.
5. Greasers.
6. Moulders, and.
7. Loco Drivers.

(b) The workers in Ex. M. 20 shall continue to be supplied with free uniforms as per the existing practice.

XIV. *Point No.* 16 *in I.D. No.* 65 *of* 1953:—

(a) The demand for payment of separate heat allowance to the categories of workers as mentioned in the Statement of Demands is rejected.

(b) The management will, however, continue to pay Kiln Greasers and Cooler Attendants the extra allowance now being paid to them.

XV. *Point No.* 17 *in I.D. No.* 65 *of* 1953:—

The demand of the workers for supply of shoes and hats for Kiln Greasers, Cooler Attendants and all Firemen is rejected, except that the management shall issue a hat every year to the Kiln Greasers only.

XVI. *Point No.* 18 *in I.D. No.* 65 *of* 1953:—

The demand by the management for stepping up the existing workloads governing piece-rated workers is rejected.

XVII. *Point No.* 1 *in I.D. No.* 278 (*Central*) *of* 1953:—

(a) The workers affected by involuntary unemployment, during the period from March to June 1953, shall be paid by the management, 50 per cent. of the basic wages and dearness allowance which they would have otherwise earned for the days on which no employment was given to them on account of the imposition of power cut.

(b) The days on which the said workers were on leave and which were holidays during the above periods will be excluded.

(c) The compensation shall be subject to a maximum of 45 days' earnings only.

XVIII. *Point No.* 2 *in I.D. No.* 278 (*Central*) *of* 1953:—

This point is not decided and is left open at the instance of the workers.

XIX. *Point No.* 3 *in I.D. No.* 278 (*Central*) *of* 1953:—

This point is not decided and is left open as prayed by the management.

XX. *Point No.* 4 *in I.D. No.* 278 (*Central*) *of* 1953:—

This point is left open and no decision is given herein.

XXI. *Point No.* 12 *in I.D. No.* 278 (*Central*) *of* 1953:—

The demand for increase in maternity benefit allowance, as prayed for by the workers, is rejected.

XXII. This award shall take effect from 13th October 1953 except that the Gratuity rules shall take effect from 26th May 1949.

XXIII. No order as to costs.

Dated at Tirunelveli Camp, this the 20th day of September 1954.

(Sd.) E. KRISHNAMURTHI,
Industrial Tribunal at Madurai.

ANNEXURE 'A'

Gratuity Rules

1. An employee of the Company who is classified as permanent and piece-rated or his dependants, as the case may be, must be eligible for the benefit of the gratuity in the following events only:—

(a) If he voluntarily resigns or retires after completing 10 years of continuous period of service in the company.

(b) If he suffers permanent disablement as a result of an accident in the course of his employment with the company.

(c) If he is retrenched as a result of implementation of any scheme of retrenchment.

(d) If he dies while in the service of the company.

(e) If he is transferred from the services of the company to any of the allied companies under the management of Sri J. Dalmia, gratuity will be paid for the period of service rendered to this company upto the time of transfer.

2. The gratuity payable will be calculated on the basis of half months basic earnings for each completed year of continuous service ending with the date of leaving the company's service, subject to a maximum of 12 months' basic earnings.

3. Calculation of gratuity shall be the basic wages not including overtime wages, or any allowance, or bonus or other benefits; the amount of half month's basic wages against any year of service will be arrived on the basis of (i) the pay last drawn in the case of time-rated workers, and (ii) the average of the preceding 12 months' basic earnings in the case of piece-rated workers.

4. Any gratuity paid under these rules shall before payment be subject to deductions on account of income-tax, if any.

5. In these rules "continuous" period of service shall have the same meaning as in Explanation I do section 79 of the Indian Factories Act of 1948, but shall not include any period of service as apprentice or probationer.

6. The dependants of an employee for the purpose of these rules shall mean and include only the following:—

(a) Widow or widows;

(b) Children, minor, or if major, having no independent source of income;

(c) Parents, if dependant on the employee for their maintenance;

(d) In the absence of persons in categories, a, b, and, c, such "legal heirs" who prove their claim by production of a succession certificate.

7. No grautity will be payable to an employee who is dismissed for misconduct as defined in the Standing Orders, or who leaves the services of the company without giving due notice.

8. Claims for gratuity must be made in writing within one year of the date on which the gratuity becomes payable, after which period no claim for gratuity will be entertained.

9. No payment of gratuity can be made without the sanction of the managing agents.

10. These rules shall be interpreted by the Directors of the Company whose decision shall be final and binding.

11. The Board of Directors of the Company shall have the power from time to time and at any time, to repeal, add to, vary or alter these rules, and frame such other rules, as they may think fit, only after consultation with Union representatives.

12. These Gratuity rules shall take effect from and be enforceable from 26th May 1949.

(Sd.) E. KRISHNAMURTHI,
Industrial Tribunal at Madurai.

List of Witnesses Examined

For the Workers:—

W.W. 1—K. M. Arokiaswami.
W.W. 2—R. Pitchai.
W.W. 3—R. Madurai Mudaliar.
W.W. 4—L. S. Shaik Hussain.
W.W. 5—K. R. Muthuswami.
W.W. 6—P. V. Srinivasan.
W.W. 7—Raju Rao.
W.W. 8—S. Tirumurthi.
W.W. 9—T. K. Koyakutti.
W.W. 10—P. J. Anthoni.
W.W. 11—C. Stanislans.
W.W. 12—M. Govindan.
W.W. 13—R. Sundaramurthi.
W.W. 14—S. Narayanan.
W.W. 15—U. Rathnaswami.
W.W. 16—M. Chinnaiyan.
W.W. 17—P. Chinnappan.

W.W. 18—T. Subramaniam.

W.W. 19—P. Natarajan.

W.W. 20—K. Ramaswami.

W.W. 21—T. Raju.

W.W. 22—D. Kunhappan Marar.

For the Managements—

M.W. 1—J. S. Char.

M.W. 2—R. N. Roy.

M.W. 3—M. D. Menon.

M.W. 4—P. T. Hinduja.

List of Documents marked

For the Workers:—

Ex. W. 1—Office Order No. DP/9, dated 7th January 1950 of the Dalmia Cement Limited, Dalmiapuram.

Ex. W. 2—Office Order No. DP.312, dated 9th/17th December 1950 of the management, Dalmia Cement Limited, Dalmiapuram.

Ex. W. 3—Office Order No. DP/LO/139, dated 26th February 1952 of the Dalmia Cement (Bharat) Limited, Dalmiapuram.

Ex. W. 4—Office Order No. DP/LO/36, dated 7th/9th February 1953 of the Dalmia Cement (Bharat) Limited, Dalmiapuram.

Ex. W. 5—Notice Ref. No. DP/AC/6085, dated 2nd/5th May 1953 of the management, Dalmia Cement (Bharat) Limited, Dalmiapuram.

Ex. W. 6—Questionnaire submitted to the Tripartite Enquiry Committee for Cement Industry by the Dalmia Cement (Bharat) Limited, Dalmiapuram.

Ex. W. 6(a)—Annexure 'A' in Ex. W. 6.

Ex. W. 7—Statement showing occupation, classification and wages obtaining in (1) Dalmia Cement (Bharat) Limited, (2) A.C.C. Madukarai and (3) India Cements Limited, Thalaiyuthu.

Ex. W. 7(a)—Report of Directors and Statement of accounts of Dalmia Cement Limited, Dalmiapuram, for the year ended 31st December 1951.

Ex. W. 8—Statement showing how a bonus of four months can be paid, by Sri G. Ramanujam.

Ex. W. 9—Letter No. DP.LO.14834, dated 27th July 1954 from the management, Dalmia Cement (Bharat) Limited, Dalmiapuram, to Sri G. Ramanujam.

Ex. W. 10—Letter No. DP.LO.11074, dated 27th May 1954 from the management, Dalmia Cement (Bharat) Limited, Dalmiapuram, to the Vice-President, Dalmia Cement Workers' Union.

Ex. W. 11—Statement of bonus calculation for the year 1952, filed by Sri G. Ramanujam.

Ex. W. 12—An extract from the *Indian Express*, dated 8th September 1954.

Ex. W. 12(a)—Postal Envelope addressed to the Industrial Tribunal, Madurai.

Ex. W. 13—Memo. dated 11th September 1954 filed by the Vice-President, Dalmia Cement Workers' Union, Dalmiapuram, before the Tribunal.

For the Management:—

Ex. M. 1—Report of the Ibcon Limited, on the conditions of Labour employed in Dalmia Cement (Bharat) Limited, Dalmiapuram (Discussions).

Ex. M. 2—Report on Labour Studies of Packing House Loading Mazdoors, Dalmia Cement (Bharat) Limited, Dalmiapuram (No. 2 of 14th May 1954).

Ex. M. 3—Term of reference of Tripartite Enquiry Committee for Cement Industry.

Ex. M. 4—Resolution No. I of the Industrial Committee passed at the second session held at Hyderabad on 24th/25th March 1954.

Ex M 5—Resolution No II of the Industrial Committee on cement held at Hyderabad on 24th/25th March 1954.

Ex. M. 6—Balance sheet of the Dalmia Cement (Bharat) Limited, for the year 1952.

Ex. M. 7—Sixteenth annual report (1951-52) of Associated Cement Companies Limited.

Ex. M. 8—Seventeenth annual report (1952-53) of Associated Cement Companies Limited.

Ex. M. 9—Seventh annual report (1953) of the India Cements Limited, Sankaranagar, Tirunelveli District.

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Ex. M. 65—Memo. dated 11th September 1954 filed by the management of Dalmia Cement (Bharat) Limited, Dalmiapuram, before the Industrial Tribunal at Madurai.

(Sd.) E. KRISHNAMURTHI,
Industrial Tribunal at Madurai.

[No. LR.4(348)/53.]

New Delhi, the 15th October 1954

S.R.O. 3274.—In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby directs that the following further amendment shall be made in the Industrial Disputes (Central) Rules, 1947, the same having been previously published as required by sub-section (1) of the said section, namely:—

For rule 7 of the said Rules the following rule shall be substituted, namely:—

"7. **Conciliation proceedings.**—The Conciliation Officer, on receipt of information about an existing or apprehended industrial dispute, may, or, where the dispute relates to a public utility service, on receipt of a notice of a strike or lock-out given under rule 52 or rule 53, shall forthwith, arrange to interview both the employer and the workmen concerned with the dispute at such places and at such times as he may deem fit and shall endeavour to bring about a settlement of the dispute in question."

[No. LR.1(83)/54.]

S.R.O. 3275.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Jugal Kishore Prasad Varma, workman of the Kurharbaree Colliery, P.O. Giridih, District Hazaribagh.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD.

APPLICATION No. 261 OF 1953.

(arising out of Reference No. 6 of 1952)

In the matter of an application U/s 33A of the Industrial Disputes Act, 1947.

PRESENT

Shri L. P. Dave, B.A., LL.B., *Chairman.*

PARTIES

Shri Jugal Kishore Prasad Varma, Clerk Grainshop, Kurharbaree, P.O. Giridih, Dist. Hazaribagh—*Complainant.*

VS.

The Superintendent of Collieries, Giridih, P.O., Dist. Hazaribagh—*Opposite party.*

APPEARANCES.

Shri K. C. Banerjee, Advocate, Dhanbad—For the complainant.

Shri S. S. Mukherjea, B.Sc., B.L., Pleader, Dhanbad—For the opposite party.

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act.

2. The complainant alleged that during the pendency of Reference No. 6 of 1952 the opposite party discharged him from 24th July 1953 without the express permission in writing from the Tribunal and thereby committed a breach of Section 33 of the Industrial Disputes Act. It was therefore urged that proper orders should be passed in the case.

3. The opposite party contended *inter alia* that a report was received against the complainant on 27th July 1951 that he had issued rations to a workman named Asrafi Hazam without any cash memo and that he did not make any entry about it in the Sale Register. After a proper enquiry, he was found guilty of this and was therefore discharged from service.

4. The complainant was working as a Stores Clerk at Window No. 8 of the grainshop of the Kurhurbaree colliery. On 27th July 1951 grains were issued to a workman named Asrafi Hazam, who was the holder of ration card No. 2027. A complaint was made by the Labour and Rationing Supervisor that the complainant had issued grains to Asrafi without a cash memo and without making entries in the Sale Register. A charge sheet was served on the complainant and after he replied to it, and enquiry was held by the Welfare Officer, who submitted his report. After considering all the evidence, the Chief Mining Engineer was satisfied that the complainant was guilty and ordered his dismissal. At the time when this order was passed, some appeal was pending before the Labour Appellate Tribunal in which the opposite party was a party and hence the order was not immediately given effect to. It was however given effect to from 24th July 1953; but at that time Reference No. 6 of 1952 was pending before this Tribunal. The above action of the management therefore amounted to a breach of Section 33 of the Industrial Disputes Act and hence the present complaint.

5. The principles governing such cases have been laid down in the wall known case of Buckingham and Carnatic Mills Limited, 1951, Vol. II, L.L.J., p. 318. It has been held in this case that the Tribunal is not sitting in appeal against the decision of the management and has no jurisdiction to consider or decide whether the finding of the management that a particular person had committed a particular offence was correct or not. The Tribunal has only to see firstly that the action of the management was *bona fide* and secondly that there was evidence before the management from which it was possible for it to come to this conclusion. The management should also have followed the principles of natural justice and should have allowed reasonable opportunity to the employee to defend himself. I am mentioning this at this stage, because the complainant has tried to show that from the evidence, it must be held that he had not committed the offence. This would be a wrong approach to the case. What the Tribunal must see is whether there was evidence before the management from which it could come to this conclusion or not. If there was such evidence, the Tribunal cannot interfere and say that the decision of the management was not correct: because, as I mentioned above, the Tribunal is not sitting in appeal against the decision of the management.

6. In the complaint the complainant has alleged that his discharge was purely a case of victimisation and unfair labour practice. He has also alleged that from July 1951 to July 1953 was a long history of official bungling and sordid manipulation against the complainant and that he had been a poor and helpless victim of their whims and unjust actions. There is however no evidence in support of any of these allegations. Excepting an allegation that he was not on good terms with the Labour and Rationing Supervisor (one Hari Charan Singh), the complainant has not made any allegation against any other officer of the opposite party. He has not alleged that he was a member of a labour union or that he was taking active part in union activities nor has he alleged any reason why he was singled out for victimisation. He has not mentioned as to what was the unfair labour practice or what the official bungling or manipulations against him were.

7. As I mentioned above, the case against the complainant was that he issued rations to one Asrafi without a cash memo and without making an entry in the Sale Register. In this connection, Shri Banerjee on behalf of the complainant argued that in the charge sheet served on the complainant (Annexure B to the opposite party's written statement), it has been alleged that "on 27th July 1951 you issued rations to one Asrafi Hazam without any cash memo. You also did not make any entry of the issues in your Sale Register. This is a very serious case of fraud." It was urged that the second part of the charge sheet meant that the complainant had not made any entries of the issues to different workmen on that date. I do not agree with this contention. In my opinion, reading the charge as a whole, it means that the charge was that the complainant had not made any entries in respect of the grains issued to Asrafi Hazam on that day in the Sale Register.

8. On this charge sheet being served on the complainant, he wrote a letter (Exhibit 20) on 27th August 1951 to the Colliery Superintendent, requesting that he should be given copies of the report and statements of persons if any taken in the matter. He also requested that he should be allowed to have the copies of the report and the statements and also that he should be allowed to see the Sale Register, counterfoils of cash memo and cash memos of that date, so that he could file his explanation in time. In answer to this, a letter Exhibit 52 was sent to him on 29th August 1951 informing him that he would be allowed to see the papers as asked for in his above application in the office of the Cashier and Accountant at 11 a.m. on 30th August 1951. The complainant accordingly went to the office on 30th August 1951. He now says in his evidence before the Tribunal that at that time inspection was given to him only of the report of the Labour and Rationing Supervisor and not of any other document or paper. I do not believe this. After inspection was given to him, he made an endorsement on the letter Exhibit 20 to the following effect:—

"I have seen the papers but I have not received the papers as required."

This clearly shows that his allegation that he was shown only the report of the Supervisor and nothing else is not correct. If he was shown only that report, he would not have used the word "papers" in plural in the endorsement when mentioning that he had seen the papers. In this connection, I may also to point out that in the letter Exhibit 52 he was informed that he would be allowed to see the papers asked for by him in his application, meaning thereby that all papers referred to by him in his application would be shown to him. If in spite of this, all papers asked for by him were not shown to him and if only one paper was shown to him, I do not think that he would have made an endorsement that he had seen all the papers. It is significant to note that he was careful to mention in the above endorsement that he was not given the papers as required by him. He had, as I mentioned above, made a request that he should be given copies of the report and statements and he made an endorsement that he was not given those copies. I may also point out that at no time after this has he ever made a grievance that the papers asked for by him in the above application were not shown to him. I am satisfied that he was allowed to inspect the Sale Register, counterfoils of the cash memo and cash memos of 27th July 1951.

9. This inspection was allowed to him on 30th August 1951. On that very day, he filed a reply to the charge sheet (Annexure C to the opposite party's written statement). In this written statement, he stated that it was possible that while issuing a cash memo to Asrafi Hazam against card No. 2027, the cash memo clerk had written a wrong number in the cash memo and that he (the complainant) must have made a corresponding wrong entry in the sale Register. He further mentioned that this would happen in various circumstances, such as rush of work at the time. He has repeated this explanation in the latter part of his reply.

10. At the hearing before me, the complainant has taken a different stand. He has now alleged that Asrafi Hazam had come to him with a cash memo showing that it was in respect of his ration card No. 2027 and that he made a corresponding entry in the Sale Register that rations were issued to the holder of ration card No. 2027. He pointed out cash memo No. 73201 as being the cash memo which was brought by Asrafi Hazam, and stated that in this cash memo, the number of the ration card was originally mentioned as 2027, but that it was subsequently changed to 2096. He also alleged that there was an entry in the Sale Register which originally showed that rations against that entry were issued against card No. 2027 but that the number thereof has subsequently been changed to 2096. He had not given this explanation in his written statement to the charge sheet, which was submitted on the very day on which he had taken an inspection of the Sale Register, the cash memo, and the cash memo counterfoil book. In my opinion, he is now trying to take advantage of the fact that there has been some correction in one entry. From this, he wants to urge that the original entry bore 2027, but has subsequently been changed to 2096. If this was so, I am sure he would have mentioned this fact in the written statement to the charge sheet Not only has he not done so, but at that time he alleged that the cash memo clerk must have made a mistake in writing the number of the ration card and that he also must have committed the same mistake in writing the number of the ration card in the Sale Register.

11. There are other circumstances which also show that the present allegation of the complainant is not correct. The first is that the quantities of grains issued to Asrafi Hazam under his ration card No. 2027 are not the same as quantities mentioned in the cash memo No. 73201 or the quantities mentioned in the Sale Register against the corresponding entry. Both in the cash memo 73201 and the corresponding entry in the Sale register, it is mentioned that the person was given 1¾ seers of free rice. The ration card No. 2027 of Asrafi showed that he was given 1½ seers of free rice. The card also showed that he had put in six days attendance and thus he would be entitled to 1½ seers of free rice; the cash memo No. 73201 showed that the person to whom it was issued had put in attendance of five days and he was therefore entitled to free rice of 1¼ seers. The complainant could not give any explanation as to how it was that he issued 1½ seers of free rice when the cash memo mentioned that 1¼ seers of free rice were to be issued. He was also unable to explain why he mentioned in the Sale Register that 1¼ seers of free rice had been issued, when actually he had issued 1½ seers free rice. This indicates that cash memo No. 73201 could not be for ration card No. 2027 of Asrafi, but it must have been for card No. 2096.

12. I may then mention that Shri Banerjee on behalf of the complainant urged that card No. 2096 was fictitious and that no such card was ever in existence. The opposite party had been called upon to produce this card, but had stated (at Exhibit 11 against item No. 17) that this card was not traceable. I therefore ordered them to produce the register showing the numbers of the ration cards issued to different persons. Accordingly the said register was produced before me and it showed that ration card No. 2096 had been issued to one Hafiz Meah.

13. In this connection, I may also point out that the Welfare Officer in the course of his enquiry had recorded the statement of this Hafiz Meah on 13th October 1951 (this statement is item No 6 of Exhibit 43). Therein he has stated that he had lost the ration card about 1½ months prior to the date of his statement, *i.e.* he must have lost it towards the end of August 1951. He also stated that he had drawn his rations on 27th July from the ration shop window No. 8. This statement of Hafiz Meah has been summarised by the Welfare Officer in his report (Exhibit 42), at page 5, in sub-para 8. This would clearly show that the allegation that card No. 2096 was fictitious is not true.

14. On the whole, I am satisfied that the entries now relied on as being the entries in respect of card No. 2027 were really entries for card No. 2096. It would thus be clear that there was no cash memo or entry in the Sale Register in respect of grains issued to Asrafi Hazam on that date, though admittedly grains were issued to him by the complainant.

15. It was argued by Shri Banerjee that the Welfare Officer had held in his report that a cash memo had been issued to Asrafi and that he had produced it before the complainant and further that he was given rations on the strength thereof. We have to read the Welfare Officer's report as a whole and not take a stray sentence therefrom. The report shows that there appeared to be a systematic fraud which was committed by the complainant in collusion with the cash memo clerk. When a ration card holder approached the cash memo clerk, he would take money and issue him a cash memo; he would take it to the Sales Clerk, who would issue rations accordingly. Some of the cash memos would

(then) be returned by the Sales Clerk to the Cash Memo Clerk and he would issue the same cash memo to another card holder after changing the number of the ration card written thereon. The Welfare Officer was held that this appeared to have happened in this case. He has pointed out that the same cash memo was issued to the card holders of cards Nos. 544 and 2027. In other words, the finding of the Welfare Officer was that grains were issued by the complainant to two persons namely Asrafi Hazam and another person on the strength of one and the same cash memo and thus it could not be said that the finding was that there was no fraud. There was also a finding that the complainant had made no entry in the register about the grains issued to Asrafi Hazam.

16. It would thus appear that the charge against the complainant has been correctly held established. Apart from this, I might repeat that I am not called upon to decide whether the finding that the charge was proved is correct or not; but what I have to consider is whether the management had evidence before it from which it could hold that the charge was proved. In this connection, I may mention that the Welfare Officer held a detailed enquiry and submitted his report. The statements recorded by him have been produced at Exhibit 43. His report is at Exhibit 42. From his report and statements recorded by him, it was possible to hold that the complainant was guilty of the offence with which he was charged.

17. It was however argued that the enquiry was held by the Welfare Officer without intimation to the complainant; that the staements were recorded by him in the absence of the complainant and that the complainant had no opportunity to cross-examine the witnesses and in the circumstances, it must be held that the enquiry had no value as principles of natural justice had not been followed. I do not believe these allegations of the complainant.

18. The different statements produced at Exhibit 43 show that the complainant had cross-examined several of these witnesses. For instance, Hari Charan Singh, Seupujan Singh, Badri Singh and Jatha Bhuiya were cross examined by him. The opposite party has also produced several letters showing that the complainant had taken active part in the enquiry. In letter Exhibit 53, dated 29th October 1951, he has stated that the Welfare Officer had been enquiring the case since 1st August 1951, and that the Welfare Officer had examined Asrafi Hazam and other card holders; but none of them had said that the complainant had served rations to Asrafi Hazam without a cash memo. He has further mentioned in this letter that he had also seen the further report of the Labour and Rationing Supervisor, and that if the number of the cash memo was wrong, he could not be blamed for it. Lastly he mentioned that nothing had been found against him till then and he should therefore be allowed to join his duties and further that the Welfare Officer may submit his report at his convenience.

19. Exhibit 54 consists of four letters written by the complainant on 22nd November 1951. They are all addressed to the Welfare Officer. The first and the third of these letters are identical and the second and fourth letters are identical. In the first letter, he has requested the Welfare Officer to send for the card holders of No. 1821 and 1914 and examine them on that very day. He has also requested that Badri Singh should also be examined. In the second letter, he has mentioned that he did not find card No. 2097 in the file of his proceedings and that the clerk may be asked to make a search accordingly and to produce all the cards.

20. These letters written by the complainant clearly show that he was taking active part in the proceeding before the Welfare Officer. He was allowed to look into the file of the Welfare Officer and could point out that certain papers were missing and should be searched out. He has also made a request that particular persons should be examined and that particular cards should be called for. Coupled with the fact that the statements of several witnesses show on the face of them that the complainant had cross-examined them, these letters clearly prove that the allegations of the complainant that he was not aware of the proceedings, and that he was not informed of the dates, that the witnesses were examined in his absence and that he was not allowed to cross-examine them are all false.

21. It was then urged that the complainant had not been given copies of the papers in the case. As I mentioned above, when the charge sheet was served on him, he made a request that copies of the complaint and statements should be supplied to him and that he should be allowed to see Sale Register, the cash memo counterfoil book and the cash memos. He was given inspection of these

books and also of the report of the Labour and Rationing Inspector. Admittedly at that time, no (other) statements had been recorded. The statements were subsequently recorded by the Welfare Officer in the course of the enquiry held by him in the presence of the complainant and the complainant cross-examined the different witnesses. It then appears that the complainant made a request on 12th April 1952 and again on 21st April 1952 for being supplied with copies of the statements of Hari Charan Singh and others. Before this, however, the Welfare Officer had submitted his report on 8th December 1951 and the same had been forwarded to the Chief Mining Engineer, who had passed an order on 25th March 1952 that the complainant should be discharged from service. On 2/5 April 1952, the Superintendent of Collieries issued a notice to the complainant to show cause why he should not be discharged from service. A copy of the enquiry report (*i.e.* the report of the Welfare Officer) was sent to the complainant along with this notice. It was after this the complainant asked for the copies. Unfortunately the copies were not given to him. In my opinion, they should have been supplied to him. This however would not by itself vitiate the order of discharge. Non-supply of copies to him after the enquiry was over did not in any way prejudice the complainant. Further, as I mentioned above, not only was there ample evidence before the Welfare Officer and the Chief Mining Engineer from which they could hold the complainant guilty; but on a scrutiny of the same evidence, I also feel that the charge against the complainant was correct.

22. It was then urged that the complainant was not on good terms with the Labour and Rationing Supervisor and that the said Officer may have made corrections in the Sale Register, cash memo and the cash memo counterfoil book. As I pointed out above, if this was so, the complainant would have made these allegations when he replied to the charge sheet. I have also pointed out above that the evidence and circumstances show that the allegations of the complainant in this respect are not correct. I am not satisfied that the Labour and Rationing Supervisor has made correction in the Sale Register and cash memos.

23. I may then mention that even if the complainant was not on good terms with the Labour and Rationing Supervisor, it would not mean that the complainant has been victimised because of this. He has made no allegations against any other officer. When the Labour and Rationing Supervisor made a report in this respect to the colliery Superintendent, the colliery Superintendent asked for the report of the Cashier and Accountant, who recommended suspension of the complainant, the cash memo clerk and Asrafi Hazam and issuing of charge sheets against them. All of them were accordingly suspended and charge sheeted and ultimately the complainant and the cash memo clerk have been dismissed. There was thus no want of bona fide in taking action against the complainant.

24. On the whole, I hold that the dismissal of the complainant was proper. In the result, the complaint fails and is dismissed.

I pass my award accordingly.

The 25th September, 1954.

(Sd.) L. P. DAVE, *Chairman.*

[No. LR.2(365)/I.]

S.R.O. 3276.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Sona Majhi and two others, workmen of the Bhulanbararee Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 334 OF 1953

(arising out of Reference No. 6 of 1952)

In the matter of an application u/s. 33A of the I.D. Act.

PRESENT:

Shri L. P. Dave, B.A., LL.B., *Chairman.*

PARTIES:

1. Sri Sona Majhi,
2. Sri Habib Mia,
3. Sri Puran Turi,

Workmen of Bhulanbararee Colliery, c/o Bihar Colliery Mazdoor Sangh, opposite Imperial Bank of India, Dhanbad—*Complainants.*

Versus

Management of Bhulanbararee Colliery, Bhulanbararee Coal Co. Ltd., P.O. Pathordih, District Manbhum—*Opposite party.*

APPEARANCES:

Shri D. L. Sen Gupta, Advocate, Calcutta—*For the complainants.*

Shri A. C. Mallik, Advocate, Dhanbad.

AND

Shri Basu Thakur, Solicitor, Orr. Dignam & Co., Calcutta—*For the opposite party.*

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act.

2. The complainants alleged that the opposite party arbitrarily suspended them without pay on and from the 26th July 1953 during the pendency of Reference No. 6 of 1952 (to which the opposite party and their workmen were also parties) without obtaining express permission of this Tribunal, thereby violating the standing orders and altering the service conditions of the complainants and thus contravening the provisions of Section 33 of the Industrial Disputes Act. It was further alleged that the action of the opposite party was *mala fide* and was influenced by extraneous considerations and was to victimise the complainants for their support and sympathy for the newly formed union. The complainants therefore filed the present complaint under Section 33A of the Industrial Disputes Act and prayed for the grant of full wages and other benefits for the period of their suspension.

3. The opposite party contended that an accident took place at the mines on the 5th July 1953 in which four miners lost their lives. On enquiry being instituted, it was found that shots had been fired in certain areas which had been completed and fenced off on the 25th December 1950. A new shot hole was discovered and new electric detonator wires were also found under freshly fallen coal. Such detonators were used in the mine only after the 1st December 1952; and this clearly showed that these detonators were used for blasting coal in the prohibited area after this date. Only shot firers could have such detonators in their possession and they alone could have fired the shots in these galleries; or, at any rate, shots could not have been fired without their knowledge or connivance. The complainants were shot firers and were responsible for use of explosives in an illegal fashion in a prohibited area; and if any illegal use was made by others, it was their duty to report the same to the management. The management applied to the Tribunal on the 22nd July 1953 for permission to dismiss the complainants. Their suspension after this date was not the result of lack of diligence on the part of management to finish the enquiry and finalise the issue. The management had no trust in the honesty of the complainants and in their ability to perform the duties of a shot firer properly. The other allegations of the complainants were denied by the management who urged that the complainants were not entitled to any relief and hence the complaint should be dismissed.

4. The complainants were admittedly working as shot firers in the Bhulanbararee colliery of the opposite party. The colliery is working in three shifts and the three complainants were working as shot firers in the three respective shifts. It is not in dispute that a fatal accident took place at the mine on the 5th July 1953 in which four miners lost their lives by the fall of coal. It is the management's case that during the course of an inspection following the accident, they discovered evidence showing that holes had been drilled and shots fired in closed and fenced off areas in the colliery and that those shot holes appeared to be recent. It was also found that electric detonators were used in firing these shots. It is their further case that electric detonators were introduced in the mine from the 1st December 1952 and this showed that shots were fired in the closed up area after the 1st December 1952. The management further alleged that detonators were supplied to shot firers only and hence the complainants must

be held responsible for the firing of shots in the closed area, either by themselves or with their connivance. At any rate, it is said that the complainants must be aware of the use of detonators in firing shots in closed and fenced areas and by their not informing the management about it, they failed grossly in the discharge of their duties. On the 11th July 1953, charge sheets were issued to the three complainants, alleging that they fired or allowed to be fired shots in old galleries and as a result of this illegal and dangerous practice, four persons had lost their lives. The complainants denied the allegations. The management allege that they were however satisfied that the complainants were guilty and wanted to dismiss them. As reference No. 6 of 1952 was however pending before this Tribunal, they could not dismiss the complainants without obtaining the permission of this Tribunal. They therefore filed application Nos. 195 of 1953, 196 of 1953 and 197 of 1953 under Section 33 of the Industrial Disputes Act for obtaining permission to dismiss these workmen. These applications are said to have been filed on the 22nd July 1953. On the 25th July 1953 the opposite party suspended the complainants without pay with effect from the 26th July 1953 and this has given rise to the present complaint.

5. The complainants' case is that under the standing orders, the opposite party could not suspend them without pay for a period exceeding ten days and by suspending them indefinitely, the opposite party changed their service conditions and thereby contravened the provisions of Section 33 of the Industrial Disputes Act. The complainants have therefore prayed that they should be awarded their wages and other benefits during their period of their suspension.

6. Shri Basu Thakur on behalf of the opposite party raised a preliminary objection that the present complaint did not now survive; because, according to him, the reliefs which were claimed by the complainants were till the disposal of the applications made by the opposite party under Section 33 of the Industrial Disputes Act. The relevant portion of the complaint which contains the prayer clause is as under:—

> "Under the circumstances, the Tribunal should (a) grant full wages and other benefits for the period of suspension and (b) further direct the company to maintain *status quo*, as an interim award, by not disturbing their possessions of quarters, and enjoying ration and other benefits till the alleged application seeking permission for dismissal of the petitioners is disposed of."

Shri Basu Thakur's contention was that both prayers (a) and (b) were asked for only till the disposal of the applications said to have been made by the management under Section 33 of the Industrial Disputes Act for permission to dismiss the complainants was disposed of, and as the said application has since been disposed of, the present complaint does not now survive. I do not agree with this contention. In my opinion the first prayer made by the complainants is the main prayer for granting them full wages and other benefits for the period of suspension. Prayer (b) is claimed as interim prayer and by that prayer, the complainants requested that they should not be disturbed in the possession of their quarters and they should also be allowed to enjoy the ration and other benefits during the pendency of the application made by the opposite party. I do not think that the words "till the application seeking permission for dismissal of the petitioners is disposed of" appearing in the prayer clause govern clause (a); but they govern only clause (b). This contention raised by Shri Basu Thakur cannot therefore be accepted.

7. It was then urged by Shri Basu Thakur that the present complaint was not maintainbale because the opposite party had not contravened the provisions of Section 33 of the Industrial Disputes Act. The relevant portion of that section reads as under:—

> "During the pendency of any proceedings before a Tribunal in respect of any industrial dispute, no employer shall—
>
> (a) alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or
>
> (b) discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute,
>
> save with the express permission in writing of the Tribunal."

It was contended that suspension did not amount to a discharge or punishment and hence clause (b) of Section 33 was not applicable. It was further contended that clause (a) was not also applicable because by suspending the complainants, their service conditions were not changed. It was therefore urged

that the opposite party had not contravened the provisions of Section 33 of the Industrial Disputes Act by suspending the complainants and the present complaint should therefore be dismissed. I am unable to accept these contentions.

8. It is true that suspension by itself could not be regarded as punishment; because punishment pre-supposes the commission of an offence. Till the offence was proved to the satisfaction of the management, suspension pending enquiry could not be considered to be a punishment. In this case, however, the suspension has followed the completion of the enquiry by the management. Actually the letter of suspension mentions that the opposite party was satisfied about the guilt of the complainants and wanted to dismiss them and had made an application to the Industrial Tribunal under Section 33 of the Industrial Disputes Act for permission to dismiss them and the complainants were therefore suspended awaiting decision of the Industrial Tribunal. In other words, this would show that the suspension was not pending an enquiry but was by way of punishment till the decision of the Tribunal was passed.

9. The intention of the management that the suspension was not a more suspension pending an enquiry but was by way of punishment can be seen from their subsequent action. It may be noted that the applications made by the management under Section 33 of the Industrial Disputes Act were disposed of, as they did not survive after Reference No. 6 of 1952 was disposed of. In spite of this, the opposite party has not so far taken any action against the complainants for dismissing them. It appears that an appeal has been filed against the award passed in the above reference. Assuming that the opposite party is one of the parties to the appeal and hence they could not pass an order of dismissal because of the provisions of Section 22 of the Industrial Disputes (Appellate Tribunal) Act, 1950, it is to be noted that the opposite party has not made any application so far to the Appellate Tribunal for obtaining permission. In other words, the present position is that the complainants have been suspended by the opposite party without pay and the opposite party has taken no action to dismiss them. In other words, suspension is a mere comouflage for dismissing or punishing the workmen. In my opinion, in the peculiar circumstances of the case, action of the management would amount to punishment.

10. Assuming however that by suspending the complainants, the opposite party has not punished them, it would only mean that the opposite party has not contravened clause (b) of Section 33 of the Industrial Disputes Act. They have however clearly contravened the provisions of clause (a), which prohibits employers from altering, to the prejudice of the workmen concerned, conditions of service applicable to them. The conditions of service applicable to the workmen are contained in the standing orders which have been produced by the opposite party at Exhibit 19. Order No. 27 thereof lays down *inter alia* "any employee may be suspended, fined or dismissed without notice or any compensation in lieu of notice if he is found to be guilty of misconduct, provided that suspension without pay, whether as a punishment or pending an enquiry, shall not exceed ten days". This means that under no circumstances can an employee be suspended without pay for a period exceeding 10 days and it would be inmational whether the suspension is by way of punishment or whether it is pending an enquiry. The Standing Orders as they stand clearly prohibit the suspension of a workman without pay for more than ten days under any ground. The opposite party has thus clearly changed the service conditions of the complainants by suspending them for more than ten days.

11. Reliance was placed on behalf of the opposite party on two cases of Assam Oil Company reported at 1954, Labour Appeal Cases, p. 78 and 1954, Labour Appeal Cases, p. 307 respectively. It was contended that in these cases it was held that by suspending the workmen without pay, the existing conditions of service had not been changed. It was therefore argued that in the present case also it could not be said that service conditions were changed by suspending the complainants as alleged. I do not agree with this contention.

12. Service conditions of each employer would be different, and they would be laid down in the standing orders. In the case of standing orders of Assam Oil Company, there were no provisions like the provisions contained in order No. 27 of the standing orders of the opposite party. On the contrary, the standing orders of the Assam Oil Company provided for the suspension of a workman pending full enquiry to establish the facts alleged against him, and they further provided that when an employee was dismissed at the conclusion of such period of suspension, he would be paid for those days during which he was suspended from work. There is no such provision in the standing orders of the opposite party. On the contrary, as I said above, standing order No. 27 clearly prohibits suspension of a workman without pay for more than ten days, even pending an enquiry. In my opinion, therefore, the cases of Assam Oil Company

do not apply to the facts of the present case, and they cannot be taken to be an authority laying down that in all cases suspension of a workman without pay would not amount to a change in the conditions of service.

13. It was then urged that suspension of the complainants was not either by way of punishment or by way of enquiry by the management but it was pending decision of this Tribunal to whom an application had been made under Section 33 of the Industrial Disputes Act for permission to dismiss the complainants. Standing Order 27 lays down *inter alia* that suspension without pay whether as a punishment or pending enquiry is not to exceed ten days. It does not mention that the enquiry is to be by the management only. I may here refer to the Standing Orders of the Assam Oil Company which provide that a departmental officer may also suspend a man pending full enquiry to establish a fact. It was held by the Labour Appellate Tribunal in the first of the above-mentioned cases (*i.e.* in the case reported at 1954, Labour Appeal Cases, p. 78) that this covered the period of suspension during the pendency of an application made under Section 33 of the Industrial Disputes Act. It was observed that the phrase "full enquiry" was not followed by the phrase "by him" and that the enquiry would cover the enquiry which the Tribunal would have to make when permission to discharge or otherwise punish the workman concerned was applied for. This case, therefore, when applied to the present standing orders, would mean that a workman could not be suspended without pay for more than ten days even pending the enquiry that the Tribunal may have to make when an application is made to it under Section 33 of the Industrial Disputes Act. I may also point out that the suspension has continued even after the application made to the Tribunal under Section 33 of the Industrial Disputes Act, for permission to dismiss the complainants has been disposed of. The suspension thereafter cannot by any stretch of imagination be said to be suspension pending decision by the Tribunal.

14. On the whole, I am satisfied that the opposite party has changed the service conditions of the complainants by suspending them without pay for more than ten days. In any one, therefore, they have committed a breach of Section 33 of the Industrial Disputes Act.

15. In the above view, it is not necessary for me to go into the merits of the case. The standing orders and the service conditions of the complainants clearly lay down that they could not be suspended without pay for a period exceeding ten days under any circumstances. Of course, the management can suspend a workman in the sense that they may not take any work from him because there is no prohibition against suspension as such. The prohibition is against suspension without pay That would mean that the management can suspend a man, provided they pay him his full wages etc. during the period of suspension. In the present case, the complainants would therefore be entitled to their full wages and other benefits during the period of their suspension irrespective of the merits of the case.

16. Shri Basu Thakur then urged that I should go into the merits of the case and in this connection, he further urged that I must do so under Section 10(4) read with Section 33A of the Industrial Disputes Act. Section 33A lays down *inter alia* that if an employer contravenes the provisions of Section 33, an employee aggrieved by such contravention may make a complaint to the Tribunal and on receipt of such complaint, the Tribunal should adjudicate upon it as if it was a dispute referred or pending before it. Section 10 of the Act refers to reference of disputes to the Tribunal by Government; Section 10(4) lays down that where in an order referring an industrial dispute to a Tribunal, the Government has specified the points of dispute for adjudication, the Tribunal should confine its adjudication to those points and matters incidental thereto. It was argued that I must go into the merits of the present complaint because of the words "and matters incidental thereto". I do not agree with this contention.

17. On a perusal of the complaint, it would be clear that the complainants have filed the complaint only on the ground that the opposite party could not (under their standing orders) suspend them without pay for a period exceeding ten days. The prayer asked for by the complainants was that they should be granted full wages and other benefits for the period of suspension. Thus the only matter which would arise in the present complaint would be whether the opposite party could suspend a workman without pay for more than ten days. If the opposite party had no power to suspend a workman without pay for more than ten days under any ground whatsoever, the complaint must succeed and the complainants would be entitled to the order prayed for by them. The question as to whether the complainants were guilty of any offence or not would thus be immaterial for the purpose of deciding this complaint and I need not go into the merits of the case.

18. I may however point out that the charge against the complainants is that they fired or allowed to be fired shots in old gallaries which had been closed down and fenced up. From the evidence of the Manager Mr. Talbot and Inspector of Mines Shri Ramnathan, it appears that when inspection of the mine was made soon after the fatal accident on the 5th July 1953, they found evidence showing that shot holes had been drilled in closed areas recently. They also found evidence to show that the electric detonators were used in doing so. Shri Ramnathan is of the opinion that the shots must have been fired in June or July (1953). Mr. Talbot has also said that in his opinion the shots must have been fired in about June 1953. The management's case is that as shot firers were in charge of the electric detonators, the above shots must have been fired with the knowledge or connivance of the complainants who were shot firers. In this connection, I would draw the attention of the management to the following facts when considering whether they should take any action against the complainants or not. The first is that it is an admitted fact that one Ranga Maji had worked as Shot Firer for two full weeks ending the 27th June 1953 and the 4th July 1953 respectively in the place of complainant Puran Turi who was on leave for three weeks in June and July. It is also an admitted fact that other persons had worked as shot firers between December 1952 and July 1953. It is further an admitted fact that electric detonators were also issued to these persons during the time when they were allowed to work as shot firers. In other words, the evidence would show that electric detonators were issued not only to the present complainants, but to three other persons. The management should therefore consider whether it was not possible that any of the other persons may have misused the electric detonators. The second fact which may be considered by the management is that (as admitted by Mr. Talbot himself) any one of the three complainants could have fired the shots in the fenced up area and further that if one of them had done so, it was possible that the other two complainants may not know about it. Mr. Talbot has admitted that it was possible that one of the complainants may be guilty and that the other two may be quite innocent of the charge.

19. As I said above, it is not necessary for me to give a definite finding whether the offence with which the complainants were charged has been proved or not, nor is it necessary for me to decide whether the complainants should be dismissed or not. No application under Section 33 is pending before me and the question of giving or refusing permission to dismiss them therefore does not arise. The question whether the punishment or suspension is justified also does not arise because suspension without pay for more than ten days could not be allowed under any circumstances. I have mentioned the above facts only for the consideration of the management at the proper time.

20. The result is that the complainants are entitled to their full wages and other benefits during the period of their suspension after the first ten days and I direct that the opposite party should pay the same to them. The arrears up-to-date should be paid to them within one month of the award becoming enforceable and thereafter they should be paid regularly, as and when they fall due.

I pass my award accordingly.

The 27th September 1954.

(Sd.) L. P. DAVE, *Chairman,*
Central Government's Industrial Tribunal,
Dhanbad.

[No. LR.2(365)/II.]

New Delhi, the 18th October 1954

S.R.O. 3277.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between Messrs. Davur Industries, Bombay, and their workmen.

BEFORE SHRI S. H. NAIK, INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE (IT-CG) No. 1 OF 1954

ADJUDICATION

BETWEEN

M/s. Davur Industries, Chipping and Painting Contractors, Bombay

AND

Their workmen

In the matter of extension of a settlement dated 30th May 1953 to the Davur Industries, as a whole or in part.

APPEARANCES.—Shri M. Davur, Proprietor for the Davur Industries. Shri P. D'Mello, General Secretary, Bombay Dock Workers' Union for the workmen.

AWARD

This is a reference made by the Central Government under section 10(2) of the Industrial Disputes Act, 1947. The facts leading to this reference are briefly these. The work of painting and chipping the ships lying at anchor in the Port of Bombay is undertaken by different firms of contractors who get the work done by employing workmen trained in the art. A large majority of these workmen are members of the Bombay Dock Workers' Union and the Union represents them in these proceedings. There was a dispute between the different chipping and painting contractors and the Bombay Dock Workers' Union in 1953 with regard to wages and other conditions of employment of the workmen employed in chipping and painting ships. That dispute was taken to conciliation by the parties concerned and an agreement was entered into before the Conciliation Officer (Central), Bombay on the 30th May 1953 which set the dispute at rest and settled the conditions of employment of the workmen in chipping and painting industry (see Ex. 1 annexed to the statement of claim). The agreement was signed by the Bombay Dock Workers' Union on the one hand and a large majority of the chipping and painting contractors on the other. It was not signed by Messrs. Davur Industries which is also a firm engaged in the said industry. As all the contractors engaged in the industry agreed to abide by the terms of the agreement except Davur Industries the Bombay Dock Workers' Union addressed a letter to the said firm on 18th July 1953 (Ex. 2 to the statement of claim) in which the Union stated that the agreement arrived at between it and the chipping and painting contractors after long deliberations was a fair settlement of the points in dispute and that if the firm persisted in its refusal to abide by the agreement the workers concerned would be constrained to take such steps as they deemed necessary. The Union complained that Davur Industries had employed labour not ordinarily engaged in the work of chipping and painting on Scindia and Bombay Steam Navigation Companies' ships and that they had further refused to pay detention money for work done in dry docks on Sunday, the 5th July 1953. The Union alleges in its statement of claim that Davur Industries did not show any inclination to settle the dispute and therefore the workers stopped work on 26th July 1953. A settlement was reached between the Union and Davur Industries on the 28th July 1953 before the Conciliation Officer (Central) Bombay. That settlement is Ex. 3 annexed to the statement of claim. In pursuance of this settlement the parties sent a joint application to the Government of India (Ministry of Labour) requesting that the following dispute be referred to an industrial tribunal and, accordingly, the Central Government referred the dispute for my adjudication by their Order No. LR.3(2)/54 dated 13th January 1954.

SCHEDULE

Specific matter in dispute.

"Whether the Memorandum of Settlement arrived at at Bombay on 30th May 1953, between the Chipping and Painting Contractors and the Bombay Dock Workers' Union be extended to Davur Industries as a whole or with the exception of clauses 25 and 26 thereof as contended by Davur Industries."

2. The Davur Industries (hereinafter referred to as 'the firm') have entered appearance and put in a written statement in these proceedings. They contend that they were not a party to the agreement entered into between the Chipping and Painting Contractors and the Bombay Dock Workers' Union and the said agreement cannot in any sense be binding on them. The Bombay Dock Workers' Union, it is submitted, is not the sole agency which supplies chipping and painting labour and there is no provision in any statute or Act that contractors must employ their workmen through the Union. Shri Mursban Davur of the firm who was present at the last meeting between the Union and the Contractors raised strong objections to the various clauses of the agreement and, it is stated, Shri D'Mello, Joint Secretary of the Union, admitted that the method of work of Davur Industries was quite different from that of the other contractors and therefore he stated that an agreement on a different basis would be arrived with that firm. It is alleged that the agreement dated 30th May 1953 was arrived at as a result of coercion and threat used by the workers. The firm contends further that it objects to the various clauses in the agreement but the specific clause to which it takes exception is the one relating to payment of detention money. The firm

pleads that this clause is unjust, unfair and inequitable. It complains about the poor quality and out-turn of the workmen who are members of the Union and states that although their demand for wages has gone on increasing their quality of work has deteriorated considerably.

3. In the course of his argument Shri Murzban Davur questioned the legality and propriety of the agreement and contended that it is not binding on the firm as it was not a party to it. But it seems from the wording of the reference made to me that the question at issue between them was whether the settlement as a whole should be made applicable to the firm as contended by the Union or whether it should be made applicable in part *i.e.* with the exception of clauses 25 and 26 as contended by the firm. The wording of the submission suggests that Davur Industries had no quarrel with the settlement being made applicable to them in part *i.e.* with the exception of clauses 25 and 26 and what they objected to was its applicability to them in its entirety. That is made further clear by the firm in para. 7 of its written statement wherein it has stated that, although it had objection against various clauses of the agreement, the specific matter in dispute was that of the detention money which is the subject matter of clause 25. Shri Murzban cannot therefore now be heard to say that no part of the settlement or agreement should be made applicable to Davur Industries.

4. The mere fact that Davur Industries are not a party to the settlement is not, in my view, any bar to the settlement being made applicable to it if the ends of social justice require it. If it was a question of pure civil law, there can be no doubt, the settlement could not have been enforced against a party who was not a party to the contract or settlement. But sitting here as an Industrial Tribunal concerned with the dispensation of social justice I have to consider whether the settlement would be conducive to industrial peace and harmony if I make it applicable to the Davur Industries as well. A very large majority of the chipping and painting contractors have signed the settlement and the Union alleges that excepting the Davur Industries all the other contractors in the said industry have adopted it in practice. It is necessary in the interest of harmony and industrial peace that the workmen employed in the chipping and painting industry that they should have the same conditions of employment. If all the other contractors excepting Davur Industries observe the terms and conditions of the settlement, dated 30th May 1953 in regard to chipping and painting labour employed by them it is unfair that the workmen engaged by the Davur Industries alone should have different conditions of service.

5. The conditions of work and the terms of employment of the chipping and painting labour in the Port of Bombay have always been the same. Shri D'Mello stated that before the agreements now in question the conditions of work and the terms of employment in that industry were governed by a prior agreement. That agreement, it was submitted, referred to the conditions of employment of workmen employed in the chipping and painting industry by all the contractors without any exception including the predecessors in title of Davur Industries. Because some difficulty was experienced in working out the prior agreement there was a dispute between the Union and the contractors concerned and that dispute was taken to conciliation. The settlement dated 30th May 1953 shows that there was give and take on the part of both the parties to the dispute. In this connection it is important to note the wording of the clause 45 of the settlement which runs thus:

> "The Union shall not allow any of the employees to demand or receive and no employee shall demand or receive from any individual employer any rate of wages or of allowances for overtime or for detention or for working on Sunday and B.P.T. holidays different from those mentioned in this agreement on the schedules hereafter whether higher or lower. Similarly, the Union shall not allow any employee to work and no employee shall work with any individual employer on terms and conditions different from those contained in this agreement it being the intention of all parties that this agreement shall be binding in all its details on all employers and employees doing chipping and painting work in the Port of Bombay without any discrimination whether or not they are parties to the agreement or have signed the same."

It is clear from this clause that the parties understood and acted on the assumption that the conditions and terms of employment of all the workmen employed in the chipping and painting work should be the same.

6. Clause 35 of the settlement refers to formation of a standing committee of five persons two of whom are required to be nominees of employers and two of the employees, the Chairman being an independent person nominated by the Conciliation Officer (Central). This Committee has to inquire into and decide all complaints by or against the employers and employees. Shri D'Mello stated at the hearing that Shri Murzban Davur was a nominee of the employers on this Committee. That shows that even the Davur Industries accepted a part of the settlement and implemented it. For these reasons I hold that the settlement in question, dated 30th May 1953 should be made applicable to the Davur Industries.

7. I shall now proceed to deal with the specific question raised in the present reference, *viz.* whether the settlement, dated 30th May 1953 should be made applicable as a whole or with the exception of clauses 25 and 26 to the Davur Industries. The Union has produced a copy of the settlement. Clauses 25 and 26 thereof read as follows:—

25. An employee, other than a stageman, booked for contract or operational job, other than rigging or unrigging or lowering or relocating stages at the ship or dock where he is asked to work at the commencement of the shift for which he is booked and if such work or job is not started at the commencement of the shift he must wait till such work or job commences and must complete the same. He will be paid detention moneys for the period of his detention at the rate of eight annas per hour night shift in addition to one single wage at the rate appropriate to the work or job he has completed. Provided that no detention money shall be paid if the work starts within one hour from the commencement of the shift. For the purpose of determining the detention moneys the period of detention shall be deemed to commence with the commencement of the shift for which the employee was booked or if he is late in arrival from the actual time of his arrival for doing such contract work or operational job and end with the starting of the work or job. The work of washing the hull of the ship in dry dock shall be deemed to commence when the caisoon of the dry dock sets in. If the recess period falls within the detention period, the period of the recess interval shall be excluded from the detention period as no detention wage is to be paid for recess interval. If for any reason such contract work or operational job has not at all started till the termination of the shift for which the employee is booked the employee shall be paid on the termination of the shift period the full wages for such work or job at the appropriate rate without any detention moneys."

26. The total number of employees to be employed by the employers for cleaning and washing the outside hull from the deep load line to keel in the dry dock shall be in accordance with the following scale:

For ships including barges, tugs and launches,

of length upto 100 feet	8 plus 1 tindal
from 101 to 175 feet	16 „ 1 „
„ 176 to 250 „	24 „ 1 „
„ 251 to 325 „	32 „ 2 „
„ 326 to 400 „	40 „ 2 „
„ 401 to 475 „	48 „ 2 „
„ 476 to 550 „	56 „ 2 „

For every additional length of 75 feet 8 men will be employed in all, *i.e.* one additional raft or tarapa on each side. One raft or tarapa will consist of four men. The length taken in the above scale is overall length.

8. These clauses are concerned with contract and operational jobs. The work required to be done by this type of labour is given under category No. 4 of Schedule I and their wages are set out in Part II Schedule II annexed to the settlement. Clause 25 deals with detention money. Detention money payable to the workmen employed on contract work and operational jobs has been the bone of contention between the parties. The workmen employed on such jobs are paid for their job or the work done by them and not for the number of days they work as in the case of time rated workers. Whatever be the length of time taken for any contract work or operational job in dry dock or wet dock the workmen employed on such jobs must continue it even though the work may commence in one shift and is completed in the succeeding shift. The employees are required to work until the job is completed. No extra money or double wages are paid to such workmen on the ground that the work done by them extends to or is continued in two or more shifts (see clause 24).

9. The workmen doing operational job or contract work are entitled to a recess in the day shift as well as in the night shift. But the recess in the case of workmen cleaning the outside hull of a ship has to be so adjusted that the work of washing and cleaning must start with the commencement of pumping out of the water from the dry dock and the work should be continued without any interruption until water is completely pumped out from the dry dock and the washing and cleaning of the outside hull is completed in accordance with the existing practice (clause 28). The workmen employed on this type of work sometimes have to sacrifice their recess.

10. Having regard to the nature of work which the workmen employed on contract and operational jobs have to turn out it appears reasonable that if they are called for work at the commencement of a shift and they have to wait because the employer is not in a position to provide work to them at the commencement of the shift they should be adequately compensated for the loss of their time. Detention money is intended for this purpose. By their detention the workmen lose wages which they would have otherwise earned or earned elsewhere. The loss of time on account of detention means loss of wages to them. If a contract work begins with the day shift at 8 a.m. a workman employed on the day shift may be able to finish it within his shift period in which case he is not required to work during the night shift. But if he has to start his work, say at about 11 a.m. or 12 noon on account of his detention, he will be required to continuously do his work so as to complete his job and for that purpose he will have to work even during the night shift. In such a case detention means not only was of wages to him but also more strain.

11. No detention allowance is paid if the work starts within one hour from the commencement of the shift. Detention money has been fixed at the rate of 8 annas per hour during day shift and 10 annas per hour during the night shift. If an employer cannot provide work at the commencement of the shift to workmen employed on contract work or operational jobs it is open to him to discharge the workmen by paying them full wages for the shift. If in the expectation of being able to provide work in the course of the shift an employer detains the workmen concerned he has necessarily to pay detention money for the waiting period. I think therefore that clause 25 of the settlement is quite fair and reasonable and must apply to the Davur Industries.

12. Similar considerations also apply to clause 26. That clause refers to the total number of workmen to be employed by the contractors for cleaning and washing the outside hull from the deep load line to keel in the dry dock. This number must have been determined as a result of the experience gained during the last several years and it has not been shown that the number is in any way excessive or unreasonable. I think that this clause should also apply to the Davur Industries.

13. Shri Murzban urged that the employers pay to the workmen employed on contract work or operational jobs the wages fixed for such jobs and therefore there is no reason why they should pay them detention money. But if the employers are not able to keep up the time as to the commencement of the contract work and consequently the workmen have to start their work late it means that they lose the wages which they would have otherwise earned. They are not allowed to stop the work at any time according to convenience and the settlement requires them to continue the work once they begin it till it is completed. I am not therefore prepared to accede to the contention advanced by Shri Murzban.

14. Shri Murzban stated that there is difference in the work done by his firm and the work done by other firms of chipping and painting contractors but he did not adduce any oral or documentary evidence to show how the nature of work done by his firm differs from that done by the other firms. I asked him to submit a note as to how the nature of work done by his firm but instead of complying with my direction he put in, sometime after the conclusion of the hearing of this dispute, a lengthy written statement, containing information wanted by me as also a mass of material to which he did not advert at the hearing of the dispute and which has not been even referred to in the written statement. I asked him to produce a separate statement regarding the nature of work done by his firm, but he refused to do so. I had therefore to reject the aforesaid note produced by him. It is not clear how the nature of work done by Davur Industries differs from the work done by other contractors and how it has any bearing on the question of detention money.

15. I therefore direct that the settlement dated 30th May 1953 arrived at between the Bombay Dock Workers' Union and a number of chipping and painting contractors be, as a whole without the exception of any of clauses thereof, made applicable to the Davur Industries.

(Sd.) S. H. NAIK,
Industrial Tribunal.
(Sd.) K. R. WAZKAR,
Secretary.

Bombay;
The 29th September, 1954.

[No. LR-3(2)/54.]

ORDER

New Delhi, the 19th October 1954

S.R.O. 3278.—Whereas the management in relation to the Dehri Rohtas Light Railway Company, Limited, Dalmianagar, and the Dehri Rohtas Light Railway Employees' Union, have jointly applied to the Central Government for reference of an industrial dispute to a Tribunal in respect of the matters set forth in the said application and reproduced in the Schedule hereto annexed;

And whereas the Central Government is satisfied that the said Union represents a majority of workmen;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7 of the said Act.

THE SCHEDULE

1. Six months bonus for the year 1953-54 be paid to all the employees according to the period they have served irrespective of any service restrictions. Those who retired after having served even part of the period under question last year should also be eligible to get bonus.

2. The existing dearness allowance should be merged with the basic salary of all the employees and a flat rate increment of Rs. 15 should be given to all with effect from 1st April 1954.

3. Revision of present grades as put in Annexure "A".

4 Confirmation of service:—

(a) Confirmation of service should be made after six months after the date of appointment and those who have already completed six months should be treated as confirmed in all respects.

(b) Chance for promotion as well as for officiating should be accorded to the senior-most and period of seniority in service should be considered from the date of appointment not from the date of confirmation. Those cases, in which, claims of the Senior Employees for promotion have been superseded and the junior employees have been favoured with, should be reconsidered and the senior either be given promotion or suitable compensation without causing any loss to the juniors concerned.

5. Previous agreements with regard to allowance, service regulation, Uniform and other remuneration should be implemented.

6. Quarter allowance should be given to all the employees according to their salary and sufficient arrangement for quarters for essential and needy employees should be made as early as possible.

7. Rest and Overtime:—

(a) Weekly rest should be given to the Engineering and Traffic staff as other Railways do.

(b) Overtime should also be given to the Engineering and office staff.

8. Provident Fund.—Trustees provident fund Rule section No. 8 in the tenth line, the clause "whichever be the lower should be deleted and whichever be the

higher" be inserted and all the previous deduction should be set aside. The provision for loan from provident fund should be made.

9. Stoppage of annual increment *en masse* as a punishment should be stopped. Stoppage of increment be restored to only in extreme cases and for time-limit only. Stoppage extended after the time limit in 1952-53 should be set aside and the employees affected by such victimisation should get the annual increment from the date of expiry of the time-limit.

10. Gazetted holidays should be given to the Office staff also.

11. Sick leave.—in case of sick leave, binding of the company's doctor's certificate should be limited to those who reside in the Railways premises or Headquarters and for the rest, certificate of any licensed doctor or established Vaidya or Hakims or Homoeopathes should be accepted by the Management.

12. Daily rated system should be abolished and be replaced by monthly rated system All such employees working under daily rated system should be treated as monthly rated temporary hands.

13. Pass and P.T.Os should be given to the retired employees as per Indian Government Railways.

14. Sons or relatives of retiring employees should be appointed before their retirement.

15. Grades and designation arbitrarily withheld and reverted by the management should be thoroughly examined in collaboration with the representatives of the Union and the employees subjected to such victimization for no fault of theirs, be restored their respective grades and designation from the date of enforcement with suitable compensation.

16 The Union demands that the dismissal cases of Sri J. N. Ojha, B. S. Ojha, Assistant Station Masters and Jagdish Pointsman should be withdrawn with the payment of back dues for the period they have been made to sit idle.

ANNEXURE A

Designation	Existing Grades	Demanded Grades
	Rs.	Rs.
Clerks, Cashier and Typist and Draftsman A	50—3—80	65—5—90—8—130
B	50—5—100	90—7—125—10—175
C	60—6—120 C & D	125—10—175—15—250
D	80—7—150	
Steno E	100—10—200	200—10—300
Peons	30—½—35	35—1—45
Loco Clerks	50—3—80	55—3—85—4—125—5—130
Time Keeper	100—10—200	120—10—220
Leading Fitter	80—5—120	80—5—120—8—160
Fitter	45—3—60 45—3—75	55—3—85—4—125—5—130
Asst. Fitter	30—3—60	50—3—85
Mechanist	30—3—60 45—3—75 45—5—100	60—2½—80 75—3—105 80—5—120—8—160
Helper	30—1—45	40—1—50—2—60
Apprentice	30—½—35	40—1—50—2—60

Designation	Existing Grades	Demanded Grades
	Rs.	Rs.
Tindal	30—1—45	35—1—50
Loco Driver	50—5—100	60—4—120—5—130
Shunter	45—3—75	60—2½—80—3—105
I Fireman	30—1—45	40—1—50—2—60—3—80
II Fireman	30—½—35	40—1—50—2—60
Cleaner and Steamman	30—½—35	40—1—50 40—1—50
Station Master	50—5—100 80—7—150	70—7—90—10—150—15—350
Asst. Master	50—3—80	65—5—80—7—150—15—300
Guards	50—3—80	
T.T.E.	50—3—80 50—5—100	
T.R.C.	50—5—100	
Gunner	30—1—45	40—1—50—2—60
Pointsman	30—½—35	35—1—50
Watchman	30—½—35	35—1—50
Headmistry	45—3—80	55—3—85—4—125—5—130
Mate and Mason	35—1—45 30—3—60	40—1—50—2—60 45—3—80—4—120
Keyman	32—½—/12/—40	35—1—50
Gang Khalasi	30—½—35	33—1—45
Trolleyman	30—½—35	35—1—45
Gateman	30—½—35	35—1—45
Blacksmith A	45—5—100	80—5—120—8—160
B	45—3—75	55—3—85—4—125
C	30—3—60	60—2½—80
Hammerman	30—1—45	35—1—50
Welder	50—5—100	80—5—120—8—160
Carpenter	50—5—100	
Electrician	45—3—75	
Painter	45—3—75	55—3—85—4—125
Pumpdriver	45—3—75	
Chargeman	100—10—200	150—15—350
Store Keeper	100—10—200	150—15—350
Motor and Rail Motor Driver	45—5—100	60—4—120—5—150

[No. LR3(72)/54.]

P. S. EASWARAN, Under Secy.

New Delhi, the 13th October 1954

S.R.O. 3279.—In exercise of the powers conferred by clause (1) of article 258 of the Constitution, the President hereby entrusts to the Government of Madhya Bharat, with their consent, the functions of the Central Government under the Minimum Wages Act, 1948 (XI of 1948), in so far as such functions relate to the fixation of minimum rates of wages in respect of employees employed in stone-breaking or stone crushing operations carried on in any mine situated within the State of Madhya Bharat.

[No. LWI-24(128)53.]

A. P. VEERA RAGHAVAN, Under Secy.

New Delhi, the 13th October 1954

S.R.O. 3280.—In pursuance of section 4 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that the following further amendment shall be made in the notification of the Government of India in the Ministry of Labour, No. S.R.O. 2155, dated the 16th November, 1953, namely:—

In the said notification, under the heading "[Elected by Parliament under clause (i) of section 4]", after item No. 38, the following item shall be added, namely:—

"39. Shri Kamakhya Prasad Tripathi."

[No. SS.121(80).]

New Delhi, the 14th October 1954

S.R.O. 3281.—In pursuance of section 4 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that the following further amendment shall be made in the notification of the Government of India in the Ministry of Labour No. S.R.O. 2155, dated the 16th November, 1953, namely:—

In the said notification, under the heading "[Nominated by the State Governments of Part 'A' and Part 'B' States under clause (d) of section 4]", for item No. 14, the following item shall be substituted namely:—

"14. Shri J. N. Mishra, I.A.S., Secretary to the Government of Orissa, Labour Department, Bhubaneshwar."

[No. SS.121(80).]

K. N. NAMBIAR, Under Secy.

New Delhi, the 15th October 1954

S.R.O. 3282.—In exercise of the powers conferred by sub-sections (1) and (3) of Section 37 of the Tea Districts Emigrant Labour Act, 1932 (XXII of 1932), the Central Government hereby directs that the following further amendments shall be made in the Tea Districts Emigrant Labour Rules, 1933, namely:—

In the said Rules—

(1) After rule 22, the following rule shall be inserted, namely:—

"22-A. *Issue of duplicate certificate of emigration.*—(1) When a certificate of emigration is lost or destroyed, an application for the issue of a duplicate thereof may be made by the emigrant labourer or his employer, to the Controller.

(2) Such application shall be accompanied by a fee of rupee one.

(3) On receipt of such application and the fee, the Controller shall, if satisfied, after making such enquiry as he thinks fit, that the certificate is lost or destroyed, issue a duplicate thereof to the applicant."

(2) In rule 32—

(i) after the words "most direct route" in both the places where they occur, the words "passing through India" shall be inserted; and

(ii) after the first proviso, the following proviso shall be inserted, namely:—"Provided further that, if the Controller is satisfied that, in

consequence of a breach in the line or other cause, assisted emigrants cannot be forwarded from Katihar by the most direct route passing through India, he may, by order valid for such period not exceeding one month as he may direct, permit the use of any alternative route specified in his order."

(3) To sub-rule (1) of rule 41 the following shall be added, namely:—

"and where the emigrant labourer is a person who, having accompanied an assisted emigrant to Assam as a child dependant upon him, has become an adult and is so employed, a report of the entry of his name in such register shall be sent to the Controller within fourteen days of the date of such employment."

(4) For rule 42, the following rule shall be substituted, namely:—

"42. *Repatriation return.*—The employer or manager of every tea estate which has during the period of twelve months ending on the 30th September in any year employed any emigrant labourers shall—

(a) send to the Controller within ten days from the date of repatriation of an emigrant labourer who is repatriated during the said period of twelve months, a report containing the names and other particulars of the emigrant labourer and the members of his family, if any, as well as his emigration certificate number; and

(b) send to the Controller on or before the 1st November in that year—

(i) a return in Form H of all such labourers and their families as have been repatriated under the provisions of the Chapter II of the Act during the said period of twelve months, and

(ii) a report containing the following particulars, namely:—

(a) the name, together with the emigration certificate number, of every emigrant labourer who has not availed himself of the right of repatriation during the said period of twelve months or who intends to exercise that right at some later date,

(b) the date of entry in Assam of every such emigrant labourer,

(c) the date of execution of the agreement under section 14 in respect of every such emigrant labour, and,

(d) the approximate period during which the right of repatriation would be exercised."

(5) After rule 55, the following rule shall be inserted, namely:—

"55-A. *Duties of persons engaged in recruiting labourers.*—Every person engaged in the recruitment of labourers shall give to the local forwarding agent, to whom he is attached, a true account of every labourer recruited by him, and shall correct any misdescription of any such labourer or of any member of the family of such labourer, which is given by such labourer and which such person knows to be incorrect or has reason to believe to be incorrect."

(6) Sub-rule (4) of rule 57 shall be renumbered as sub-rule (5) of that rule and the following shall be inserted as sub-rule (4) of that rule, namely:—

"(4) Whoever contravenes any of the provisions of rule 55-A shall be punishable with fine which may extend to one hundred rupees."

(7) For sub-rule (2) of rule 59, the following sub-rule shall be substituted, namely:—

"(2) The employer or manager of the tea estate, on which the emigrant labourer executing the agreement was employed at the time the agreement was made, shall retain the agreement—

(a) where it is for the postponement of the exercise of the right of repatriation, for a period of two years from the expiry of the period for which such right is postponed; and

(b) where it is for the waiver of the right of repatriation, for a period of two years from the date of execution of the agreement;

and every such employer shall, if so required by the Controller or any officer exercising the powers of the Controller under section 4, produce the agreement at any time during the period concerned."

(8) In rule 62, for the word "register", the word "registers" shall be substituted.

(9) After rule 62, the following rule shall be added, namely:—

"63. *Report on emigrant labourer quitting employment, etc.*—The employer or manager of a tea estate shall send to the Controller by registered post a report giving the names of emigrant labourers who have quitted their employment otherwise than in exercise of their right of repatriation or who have been transferred to another estate, within ten days of the event. The report shall contain the date on which each such labourer quitted his employment or was transferred, as the case may be, and also the reasons therefor as far as they are known."

[No. PL-136/EMG(16).]

N. C. KUPPUSWAMI, Dy. Secy.

New Delhi, the 18th October 1954

S.R.O. 3283.—In exercise of the powers conferred by sub-section (1) of Section 13 of the Employees' Provident Funds Act, 1952 (XIX of 1952) and in supersession of the notification of the Government of India in the Ministry of Labour No. PF-516(21), dated the 22nd April, 1953, the Central Government hereby appoints Shri Paramjit Singh, Director of Industries and Labour Commissioner, Patiala and East Punjab States Union, to be an Inspector for the whole of that State for the purposes of the said Act and of any scheme framed thereunder in relation to factories engaged in a controlled industry or in an industry connected with a mine or an oilfield.

[No. PF-516(21).]

S.R.O. 3284.—It is hereby notified for general information that, in pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme of 1952, framed under section 5 of the Employees' Provident Funds Act, 1952 (XIX of 1952) and in supersession of the notification of the Government of India in the Ministry of Labour No. PF-516(21), dated the 22nd April, 1953, the Central Government has appointed with effect from the 16th August, 1954, Shri Paramjit Singh, Director of Industries and Labour Commissioner, Patiala and East Punjab States Union, to be the Regional Commissioner for the whole of that State to work under the general control and superintendence of the Central Commissioner.

[No. PF-516(21).]

TEJA SINGH SAHNI, Under Secy.

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